

LONDON SUNDAY TELEGRAPH
September 6, 1964

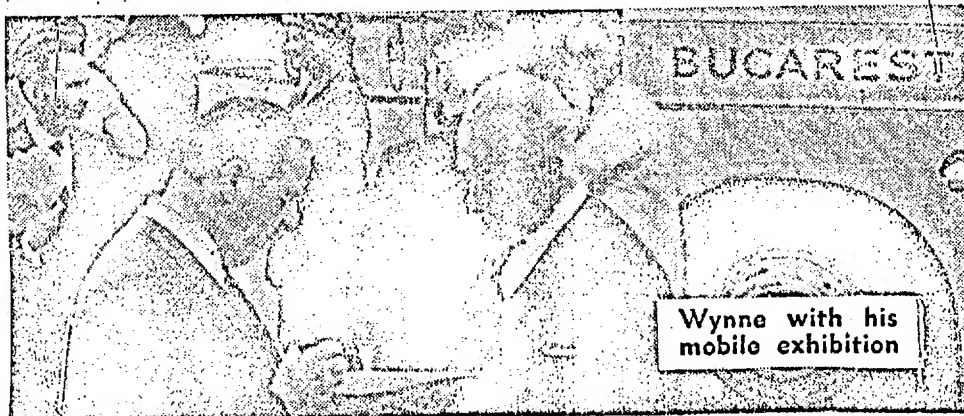
GREVILLE WYNNE'S STORY : I. A Blow with a Revolver

Then

The British business man imprisoned by the Russians on charges of spying recounts his experiences in Soviet hands, from arrest through interrogation and trial to release. First, how it all began.

"You must tell us all"

By GREVILLE WYNNE



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THE party was over. It was dusk as we left the little pavilion in the Central Park in Budapest, where I had just been giving a reception in honour of the Ministry of Foreign Trade and other Hungarian officials and businessmen.

With my Hungarian interpreter, Pal (pronounced Paul) Ambrus, I stepped out to go across to my mobile exhibition display unit. Some of my guests had said they wanted to see the industrial equipment on display just once more.

I remember that Ambrus seemed to have disappeared across the road. I suddenly found myself all alone, and then surrounded by four men. One of them asked, "Mr. Veen? Mr. Veen?"

I did not understand. "Excuse me," I said. "Wynne is my name. Do you wish to speak to me?" And I shouted across the roadway: "Pall! Pall! Where are you?"

He came running, stopped as he saw the men, and they spoke to him in Hungarian. Ambrus said to me: "It's all right, Mr. Wynne, they speak good English." Then he disappeared.

A car had been driven alongside me. The next thing I knew I was tripped and pushed into the back of the car, a Russian-built Moskvich. They put their hands over



Helen Serespyen: a sound of high-heeled shoes in prison.

my mouth, a pair of feet over my body, and then I was struck above my left eye with a revolver. I do not know what happened next. It was all over so quickly—between seven o'clock and five-past on the evening of Friday, November 2, 1962.

I was still lying in the back of the

when I came to. My hands were handcuffed behind my back, and the lapels of my jacket had been ripped off—just as a precaution in case I had some poison capsules hidden behind the lapel. I could feel the blood from the cut made by the revolver all over my face.

After a little while the car stopped. I was at a prison—a filthy, dirty institution—on the outskirts of Budapest. I was semi-conscious as I was hauled before a desk lit by a shaded lamp. The men at the desk just looked at me. "What is this?" I demanded angrily. They just laughed.

I was put in a cell with a double door. Two guards stayed there all the time, one outside on a chair, the other in my cell all night. It was about eight when I arrived. An hour later I heard the sound of high-heeled footsteps on the stone floor of the corridor outside.

Now not many girls in Budapest have high-heeled shoes, but I knew one who had—Helen Serespyen, a pretty Hungarian girl who had acted as interpreter for my company during previous trade fairs.

I heard sobs. The main cell door was open. I took a chance and shouted: "Helen!" and she shouted back. And she was immediately gagged, and so was I. So I knew that she had been arrested and brought in for questioning. Much

later I heard a statement she had made under interrogation.

It must have been early in the morning when I left. I was allowed to go to the toilet, and the handcuffs were just released and two men held my arms. Then the handcuffs were put back on, and I was pushed again into a car with blinds. Two men got in beside me, another into the driving seat by the side of the driver. There was a car in front and a car behind, and we raced through the streets at a terrific speed, blowing the horn.

When we arrived at a Russian military airport I knew where we were going. It was dawn as we took off for Moscow, in an Ilyushin-14 military aircraft. Inside were a general, a lieutenant-colonel and an interpreter, all of whom I was to meet almost daily in the next six months. With them were a woman doctor, several Russian soldiers, and two or three men in civilian clothes. I learned later that they had been in Budapest for the past few days—all, it seems, for me.

I was hungry and thirsty, having had nothing to eat since lunch the previous day. All that had been given to me on the trip were an apple and a glass of water. And the doctor bandaged the deep cut on my forehead. After nearly seven hours in the air we landed at a military airport in Moscow. As I stepped from

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the plane I was confronted with an array of film cameramen and photographers of all kinds. I came down the steps, bandaged up and escorted by two men. I was still handcuffed.

I was pushed into a hut, and stayed there, still with no food, until it got dark. I had lost all idea of time by then, but it must have been several hours. I came out of the hut. There were army searchlights on the hut entrance, and more film cameras. I got into the back of a metal prison van, with soldiers, and was driven away to what turned out to be the infamous Lubyanka Prison.

I cannot honestly say that my arrest had come as a complete surprise. The last time I had been in Moscow—the previous July—I was followed when meeting my friend Colonel Oleg Penkovsky. My room had been searched. Penkovsky himself was being watched. I got out quickly, but the Penkovsky I left behind was a very frightened man. He even wanted me to get him a gun as protection. [The Russians announced that Penkovsky was shot after the joint trial with Wynne.]

Penkovsky was nominally deputy chief of the Foreign Relations Department, Technical-Scientific Committee, a high-sounding title for a body whose main task was to keep tabs on foreign business and businessmen in Russia. Most of the senior members of this organisation were in fact members of the Soviet intelligence service, and like Penkovsky had a military background and had gone through special training for this civilian job. Their chief task was to pick out likely foreign businessmen who might be useful in leading them to secret technical and scientific information. After my trial this organisation disappeared: I have little doubt that it has since re-emerged under a different name.

Penkovsky and his chiefs were among my contacts for my work as sales consultant to a group of British industrial concerns. But Penkovsky had also given British and American intelligence much information and from July onwards he knew that the Russians were on to him. I knew from what he told me in July that he was taking precautions, and if necessary he was going to come out of Russia at the next opportunity.

A Risk Taken

Even before I visited Moscow in July I had discussed with the Russians a project of mine to take a mobile exhibition unit, which was in the process of being specially constructed, to trade fairs primarily in Eastern Europe. I further discussed this project with Penkovsky's committee when I was in Moscow in July.

I knew that there was a certain amount of risk involved if I associated with Penkovsky any more—if, in fact, I went to Eastern Europe any more. But it was thought that, after making all these arrangements, and making this my excuse for going to Moscow, if I did not go and make any contact with Eastern Europe the Russians would be a hundred per cent. sure that there was something more than a business association between Penkovsky and me. So I decided that, to support Penkovsky in what he was saying as to why he had such frequent contacts with me, I had to go. I hurried to get ready in time for the British Trade Fair in Bucharest in October, though I knew there was a possibility of trouble.

What I did was this. I went in my car, accompanying the mobile exhibition units through to Hungary, and then sent them on to Bucharest with my manager. I stayed behind in Hungary to meet the authorities there, and to get them to agree that when my exhibition units came back from Rumania on the way home, we should have a private exhibition in Hungary. It was a good business idea.

This visit to Budapest was different from my many previous trips. The minute I arrived in the Duna Hotel, this young man Ambrus was at the reception desk. He looked at me, and the hotel chief clerk said, "Oh Mr. Wynne, you come with mobile units? I saw your mobile exhibition. You are going to have a show here in Budapest? If you need interpreter or someone, this gentleman here is student, and will help you."

This was too easy of course, and did not fool me, but I said to myself: "Well, the best thing is to keep him near you." So I asked him to see me in the restaurant at eight o'clock.

He told me a story that he had finished his student's course, and wanted to work in the Tourists' Bureau. Of course at that time it was not the tourist season; he was free to do some work; he would like to work with me and help me in interpreting. So I took him on as an addition to Helen Serespyen, as we expected a large number of visitors.

He told me a funny story about trying to escape from Hungary. I said, "I don't want to hear anything about that. . . ." He was too smooth, too well-informed.

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The Curious Host

So I stayed in Budapest and went round on trade enterprises for three or four days. I met the head of the British section of the Budapest Chamber of Commerce, who took me out to lunch and questioned me on how I started my business, my connections and what I was doing.

He questioned me a great deal and quite unnecessarily, as I had been visiting Hungary regularly over the past ten years and they must by now have known all about me. Eventually it was agreed that the Hungarian trade enterprises would visit my exhibition on the return journey from Rumania. And having fixed all this up, I then went back to Vienna, took a plane to Bucharest, where I joined my vehicles at the trade fair. At the end of the fair the vehicles packed up and went back to Budapest, and I took a plane a few days before back to Vienna, where I had a rendezvous with my wife.

Now I thought "They are obviously keeping an eye on me; but I'm not doing anything wrong." So after a long weekend with my wife in Vienna I drove my car, which I had left there on the way to Bucharest, across the border into Hungary.

I had no means of knowing that it was while I was in my car going to Vienna from Budapest the week before, on Oct. 24, that Penkovsky was being arrested in Moscow. They took an awful chance in letting me go out of Budapest back into Vienna, although I had left a suitcase at the hotel. Perhaps at first they were not completely sure of the part I had played with Penkovsky. They could have picked me up on my way to Vienna or in Rumania. But they didn't.

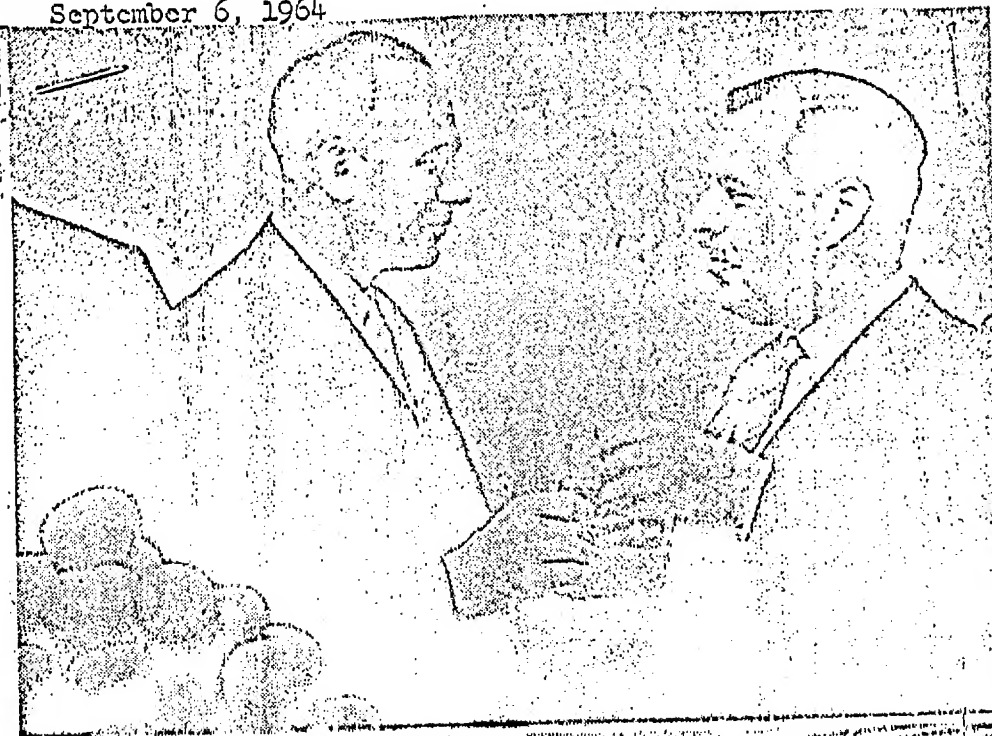
Invitation

When I arrived in Budapest on Wednesday, Oct. 21, Ambrus was waiting for me in the Duna Hotel. "Ah," he said, "tomorrow I should like you to come to visit my grandmother and grandfather. They live on a little island just outside Budapest—on the Danube. It is very nice there and quiet. It is a lovely island and we would like to have you."

I did not like the sound of this and said I wasn't sure if I was free, but he knew that I had not got an appointment until the evening. So he said, "Well if you could come at 10 o'clock in the morning it would be a good time."

"Well, all right, I'll come."

So at 10 o'clock in the morning, Ambrus was waiting down in the hotel, and I said: "I am sorry Pal, I can't come. I've got an appointment." In fact I had deliberately fixed an appointment by telephone early in the morning with one of the enterprises on a pretext.



In Moscow during the happy days: above, Oleg Penkovsky and the author at a business party; right, Wynne addressing a meeting on Anglo-Soviet trade.

I came back about two o'clock in the afternoon, and sure enough Ambrus was still waiting there. "Come out and have lunch with me," I said.

He said, "I know a 'good little restaurant near the ferry. Please come on and see my grandparents."

"I don't want to do that," I replied. "Find out when the ferry goes, and if it's convenient we'll have lunch at a little restaurant nearby."

He asked me to drive down a very narrow road. I got the car halfway down and decided that I didn't like this. "Look," I said, "this is not good for the car."

He got out of the car, and shouted in a loud voice in Hungarian, of which I know only a few words. "What are you doing?" I asked. "Asking for the ferryman," he replied.

Then an old man came running up the lane and they had a little discussion. I kept the engine running, and had reverse ready because I did not like the situation. Then, through the trees, I saw an old house, but no ferry. I do not know for certain, but it seems to me that if I had gone at 10 o'clock in the morning down this road, these Russians I was later to see on the plane would have been waiting at this house, and the interrogations would have started there.

How had I got myself into this posi-



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"There in the cell was Penkovsky"

tion in Budapest? Before the war I had studied engineering at Nottingham University and completed an apprenticeship course at a large engineering company. I entered the Army in the early part of the war, and was later commissioned. After the war I became sales engineer to a company distributing industrial electrical products. In 1950 I set up my own business as an exporter of industrial engineering products, which entailed frequent trips overseas, and later this developed into an industrial sales consultancy business. In this capacity, for the past 12 years, I had represented a group of eight independent companies manufacturing heavy industrial equipment, their products ranging from complete plants to specialised machinery—complete power stations, cement works, marine equipment, etc.

Over the years I had done considerable business for the various companies both in Eastern and in Western Europe. When planning my trips to the Soviet Union, I had occasion to go several times to the Soviet trade delegation in Highgate. And sometimes I would also see the so-called commercial attaché at the Soviet Embassy, a man named Pavlov. He is no longer in London.

A Proposition

Among the people I met at Highgate early in 1960 was a man called Kulikov—he is no longer in London, either. I arranged through him for experts from the companies I represented to go to Moscow in a group to give a series of lectures and meet the top executives of Soviet industry in Russia.

Kulikov asked me a lot of questions, and he then asked me if I would go down to see Pavlov at the Soviet Embassy. This was the third time I had met Pavlov.

We sat around, and we had a drink, and we talked, and Pavlov said, "Now Mr. Wynne, you represent these companies. I wonder if you could arrange for Mr. Kulikov and some of his colleagues to go and visit these companies?" He named two or three and I said, "Well, may I phone now?"

I picked up the phone and I fixed it there and then in Pavlov's office. You see, they had to make sure about me, because they had never had an individual like me going backwards and forwards, travelling regularly to Moscow and Russian satellite countries representing a large group of companies covering such a wide range of industries.

Pavlov asked if Kulikov could see my office. I agreed immediately and took him straight away, first to my city office and later to my private office, which is an extension to my house. It was the first time a Russian had been in my house. After drinks, Kulikov was smiling and very happy.

Three days later I went round to the Soviet Embassy and picked up Kulikov and another man, whose name was Rudov, to go up to the north of England by train to visit the various factories. Kulikov produced two railway warrants for third-class tickets. "But Mr. Kulikov," I said, pretending to be astonished, "all Western businessmen never travel third; they always go first class." I decided to have a little joke at the expense of Pavlov. I picked up the telephone and called him. "Really Mr. Pavlov, you cannot allow your colleagues to travel third class." Pavlov agreed to change the warrants: I think Kulikov and Rudov were the first Russians ever to travel first class in a Pullman car.

They had a good time and a good reception at the works and we spent all our spare time together for three or four days. Shortly afterwards, Kulikov phoned me up one night at my house and said, "I want to speak to you Mr. Wynne." "Oh yes," I said. "A pleasure." "Yes, Mr. Wynne, but not in your house."

It was dark; he would not come in daylight. He had arranged to meet me at the entrance to a little garden on Chelsea Embankment. We sat in the rain on a bench next to Carlyle's statue. The rain dripped down the broad brim of his Russian trilby.

"We know you have many friends in industry, Mr. Wynne," he began. "If you could help us, you know, get hold of new developments, new inventions, we are interested in new things, new ideas. Perhaps you could get some catalogues, or some drawings, anything. If you could help us we would always be very good friends of yours."

He went on, "We would see to it that you would do very good business in Moscow. Because we only like to work with people we like, you see Mr. Wynne?"

So I said to Kulikov: "Well, of course I have to deal with many companies, and anything you want to know about them, Mr. Kulikov, it's a pleasure, I will take you there and introduce you to the directors. But that is all I am prepared to do."

He was obviously not too sure about me. But he did not give up: he turned up again on the doorstep when I wasn't in. He spoke to my wife and it was explained to him that I was away on business in Western Europe. He was very embarrassed and went away.

Business Basis

This was obviously an approach by them to test me out. Much later, when I had had the occasion to meet Pavlov again, this time in the presence of Penkovsky, he said to me, "Ah, Mr. Wynne, I hear you are not political, you are neutral, yes?" I said, "Mr. Pavlov, you have hit it right there. All I want, Mr. Pavlov, is good business, honest business. Please, Mr. Pavlov."

They had established the fact that from their point of view I wasn't political, but solely on a business basis. All this was duly recorded in a report to Moscow, a photocopy of which was shown to me by Penkovsky in London.

Our delegation of experts and lecturers arrived in Moscow in December, 1960. This was the first time a private delegation of independent companies had visited the Soviet Union: all the others had been sponsored by trade associations. We were taken care of by the Technical-Scientific Committee on which Penkovsky, of course, was prominent.

I saw a lot of Penkovsky in the course of business, and I had a number of private talks with him; he did most of the questioning and revealed little about himself. But one morning one of the oldest members of my delegation came up to me, quite agitated.

"Is it not unusual," he asked, "for

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Russians to come up to one's hotel rooms for a chat?"

It was most unusual, and I was curious to learn more. It appeared that Penkovsky had come into his room and asked him to make some contacts for him in London, and to take a package back to England. He was rather troubled by this visitation and called in a colleague. He did not take the package, but he reported the matter to the authorities when he got home.

This, it turned out, was the third time in a year that Penkovsky had tried to make contact with Western intelligence. Early in 1960 he had made similar approaches to a member of a Canadian trade delegation concerned with the timber industry and paper-making machinery. He also refused to take anything back but he reported the matter to the authorities. An attempted contact at the American Club in Moscow shortly afterwards proved similarly abortive.

It was not until I returned to Moscow two months later that Penkovsky was finally able to make contact—through me.

I had plenty of time to ruminate on all this during my first few days in the Lubyanka gaol. I arrived there just 24 hours after I had been kidnapped in Budapest. It was dark. I had had nothing to eat except an apple and a glass of water. When I was taken out of the van I was pretty dazed. I felt ill and shaken about after the blow on the head.

I was led straight away into a metal lift—a lift made of steel. Now this was a terrible experience—probably the worst moment for me. The lift was in two compartments; you stepped in, and they opened two little metal doors of the inner compartment, and pushed you in, turned you round, and closed the metal doors. Just above was a spy-hole into the other compartment, in which there were the guards. They put the clamps down outside, and you were left with one tiny light up in the roof and a human eye looking in.

We went down and down and I didn't know where the hell I was being taken. Eventually we stopped at what I now know was five floors below ground level (there are still other floors below).

They grabbed me and took me from the lift—I was still handcuffed—and we



Pal Ambrus: this photograph and that of Helen Serespyen on the previous page were taken by the author shortly before his arrest.

went along a corridor. I was put into a very small room. There was a bench. In fact it was a changing room, but at that time I did not know it. I thought this was my cell—and I had heard the stories of concentration camps where you can't stand up and can't lie down—and I saw this little bench on which you couldn't lie down, you could just about sit on it.

And then the guard opened the door and started bellowing at me. He pointed to my clothes. But I shook my head; I only know a little Russian. Eventually they grabbed me, and they gave me a piece of dirty brown caustic soap; and then I started to realise that they wanted me to wash.

After my shower in a grimy closet with a rusty sprinkler overhead they gave me a pretty grim sort of vest, one pair of pants and a pair of rather dirty dungaree type trousers to put on—all my other clothes were taken away. I was left with a pair of heavy-soled canvas boots, no laces, no socks.

I was taken back to this lift, up a lot of floors, into a room, and there a woman doctor looked at my cut and bandaged me up again. And then I was pushed down the corridor into the prison itself—all the time there were gates being opened and closed, and corridors, and lights and metal gates.

I was pushed into a cell which was terribly bare, with a bed made of metal slats a quarter inch thick. A heavy bed—everything was so heavy so that one man could not pick it up and throw it at the guards. It was solid metal, with no give in it. This is really painful as I have steel pins in my leg as the result of an accident in Odessa in 1957. But that is another story.

A flat mattress, one pillow, one blanket, a stool and a table—that was all. There was also one small shelf and one wall was covered with the rules of the prison—all in Russian that I did not read anyhow. There was a barred window—you could not see out of that. And of course it was winter; in November it is very cold there. And this was the winter of 1962, the winter that broke all records, not only in Britain but also in Russia.

Bitter Cold

In the Lubyanka there is hardly any heating, just one short piece of pipe sticking out of the wall. This is never more than luke-warm at any time. It was very cold, bitterly cold. The window was very high, it was a double window and one bit opened and stuck down inside. You could not see out, it was wired, and no light came through. The electric light was on all day and all night. There was a bulb over the door, and this was terribly difficult because you had to sleep in such a way that they could see your head through the spyhole—and as you were sleeping this bright light was on your face. If you pulled your blanket up, you had your head in the blankets and your feet were exposed. Moreover, the blanket was coarse and

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rough and irritated the skin. I had to sleep with my hands above the blanket and my head exposed. Also, I had to eat facing the door.

Anyway I was pushed into this cell and they brought me a bowl of soup—thin cabbage soup, with a piece of very dark, brown bread, the size of a sandwich loaf, four inches thick—no knife, just a spoon—and a mug of very weak tea, which had no sugar or milk in it. I received one and a half lumps of sugar a day, and on this occasion, on arriving I did not get any as it was night-time.

While I was eating somebody was watching me through the spy hole, which clicked incessantly night and day. I was under observation all the time.

There were two guards on the small passage to my cell. On the one occasion, later, when I was allowed to go into the prison area to shave, I observed how these guards operated at other cells. The two guards used to work together. One went along, clicked the spyhole, and walked past without looking. Then the other guard would walk with soft slippers, not make it click, and just ease it gently in a corner. So you would hear the click and you would hear the guard walking away, but then the second guard would follow up and stand by the door and just ease the shutter, and make a prolonged observation.

Interrogation

After I had had this bowl of soup—I could hardly eat the stuff, it was really foul—and the mug of tea and that brown bread, I seemed to have slept on the iron bed. The next thing I knew I was woken up—very early indeed.

I was taken along the corridors and placed in front of a general, a colonel and an interpreter, and I was interrogated for the first time. They were the same people I had seen on the plane from Budapest.

The general spoke English, but never during interrogation except when he got angry. He was in his early fifties, a very big fellow, with many medal ribbons on his chest. He occupied a very fine office by Russian standards—I had not seen anything like it in any of the offices of the Foreign Trade Ministers I had visited.

The lieutenant-colonel was the main interrogator. He did the routine questioning.

I must say the interpreter never tried to be difficult. He never tried to interrogate: he just did his job of interpreting. And this helped considerably, of course. He was a really quiet sort of chap. His English was almost perfect. He had an artistic temperament, rather than a hard-bitten Lubyankan one.

I felt sorry for him at times—it sounds funny to say this, for though it would seem ridiculous to say he was sympathetic he certainly wasn't very anti-me. He gave me odd cigarettes privately, and once he gave me a book—"The Brothers Karamazov" by Dostoyevsky.

The room in which the preliminary investigating took place was very large, about 25 feet long by 20 feet wide. It was in fact the general's office. It had a fitted carpet which was most unusual in Soviet places, and by Russian standards it was luxuriously fitted. It had a television set, and an enormous intercom system with something like 20 switches. There was no visible tape-recorder, but it was obvious to me later that there were microphones because I was always placed by a certain table and I was immediately cautious about this.

There was a large table with a felt cloth on it, with 20 chairs round it. There were several steel cabinets, all locked, and several iron safes. The desk at which the general sat was very highly polished; there was a silver ashtray, and on one occasion a Ronson gas lighter. Once he gave me a Player's cigarette and a cup of Nescafe—this was in the early days. He seemed to be a pretty big noise, the general.

I used to sit opposite his desk at the small table. There was a door leading to a toilet, which I noticed had an electric shaver, a Philips' one, plugged in by a mirror. It also had an eau-de-Cologne spray which was obviously the general's, and a jar of Vaseline hair cream. There was also a refrigerator in this ante-room.

Heavy curtains draped three large windows overlooking the streets of Moscow approximately five floors below. We could just see the rooftops of the buildings. There was a chandelier hanging from the ceiling. And a picture of Lenin of course—Big Brother was everywhere!

'Now Mr. Wynne ...'

For several days the interrogation took place in this room—twice a day, two hours in the morning, perhaps three in the afternoon.

"Now Mr. Wynne, it is no use now, you are wasting your own time and ours. We know all about your activities with Penkovsky. Penkovsky is here, he has told us everything, so you are stupid if you make things difficult for yourself. Now you're in our hands—now you must tell us everything."

I would turn round and say, "I don't understand what you're talking about, it's stupid. What do you mean by this? Is this Russian culture, what am I doing here?" And I would point to the scar where I had been hit over the head with a gun in Budapest.

And the general would say, "Of course, Mr. Wynne, we know this is not correct, we don't usually treat our prisoners in this way. This was a mistake; you shouldn't have struggled in the car, I hear you struggled on arrest."

"Excuse me, I didn't struggle at all, I had no time to struggle you see."

"But Mr. Wynne, it wasn't our people, Russian people never do this kind of thing. This is a waste of time, what a waste of time speaking to you. ..."

I just denied everything for the first five or six days. "I don't know what you're talking about," I said.

After about a week, they took me down the corridor and said: "Look, look in there." They put a hand over my mouth, and I looked through the spy-hole of a cell. There was Penkovsky sitting at a table with a pencil, writing. He was thin, unshaven. He looked terrible. They dragged me back to the interrogation room: "Who did you see there? Are you satisfied that it is Penkovsky?"

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NEXT ARTICLE

The Penkovsky I knew

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GREVILLE WYNNE'S STORY—Part II

OLEG PENKOVSKY looked terrible when I saw him through the spy-hole of his cell in the Lubyanka prison in Moscow. But I could not fail to recognise him.

He was almost the same age as me. His birthday was on March 28, 1919, my birthday was on the 19th. We were almost the same height, the same build, the same age. He was a very alive person, extremely intelligent on a variety of subjects. He had a sense of humour. He liked vodka, he liked wine, he liked spirits, but he would hardly drink at all in business hours. I never saw him drunk. He was always very much alert.

He had a military bearing and was probably an inch taller than me, about 5ft. 9in. He walked very quickly, was very keen on his health, and took a lot of exercise. He was always asking how he looked, and he was very upset because he was slightly bald—he used to try all sorts of tonics which he couldn't get in Russia. He liked the company of women.

Penkovsky told me that he had been brought up under the Communist system, had become an active Communist party member, was recruited into the Red Army, and served as an artillery officer in the Japanese-Manchurian, Finnish and German wars. He had become a colonel at the age of 30. His father had fought as an officer in the White Army during the Revolution.

Penkovsky had married a general's daughter, and after his military career he became a full-time member of the State Security organisation and an intelligence officer of the reserve Army. The Russians went to great lengths to deny this to me, and told me that if I mentioned this in court or at any other time later, they would make much trouble for me. Penkovsky had shown me and other people in the West official cards and documents identifying him as a member of military intelligence. That is why he joined the Technical-Scientific Committee. It was purely a method of meeting Western delegations, keeping tabs on them, and picking Western brains.

He told me his eyes were opened when he went to Istanbul as assistant military attaché in 1947. It was the first time he had been out of Russia. After the war a lot of Russians like him, particularly in

"Oh, My Poor Russians!"

Said Penkovsky

How a Communist's eyes were opened to Western ways, how he debated "Shall I stay?" and how his English friend found himself under Russian suspicion.

By GREVILLE WYNNE

the Army, did not necessarily want capitalism in an American sense—what they wanted was a more liberal form of socialism, and a more reasonable attitude.

He was a member of the Communist party. He said he did not want to give the impression that he was turning against the Russian people, against his country. But a lot of his friends, some of them in very high places, were feeling the same way. After Stalin they expected changes to take place much more quickly, but the economy of the country was being drained for soldiers and guns and military equipment.

There was not the slightest doubt in my mind that Penkovsky was genuine, and I am prepared from what I know about other things to believe that people in high places badly want a more liberal and sensible way of life. In a way, he was the top of an iceberg; there are lots like him below the surface.

When I left Moscow in December, 1960, with that first delegation, it had been agreed in principle that a Russian delegation would pay a return visit to England and visit my companies and factories. There was delay, so I agreed with my companies to go to Moscow again to try to finalise the programme. Penkovsky was there to meet me.

"Now Mr. Wynne," he said, "you have come because there is some delay in the delegation. Well we have a delegation, I have a delegation, and I am coming to England."

"I asked who the delegation members were, and he gave me a list. 'Professor —, who is he?' I asked.

"Ah, the Professor. He is in Moscow now. He looks after radar, and he is interested of course in Jodrell Bank."

"Well Mr. Penkovsky, I am not visiting Jodrell Bank. And who is this —?"

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IN LONDON Penkovsky
was a keen party-goer

"He also is in Moscow at the moment. He is interested in computers."

"But I am not representing any companies with computers." To cut a long story short, there was only one man of the eight he had got who represented a firm that I had anything to do with.

I told him, "I can't accept this delegation as they do not represent the interests and equipment of the companies I represent. You are expected to come to look at the equipment which I am selling."

Then Penkovsky said, "Please Mr. Wynne, I beg you, I cannot explain, but I must come to England. If you make trouble for me I cannot come. Maybe they will send another delegation if you make trouble, but then I will not come."

"I would like you to come," I said, "but what difference does it make? This is business."

And then he told me for the first time a little of his hopes and fears for his country, and of the plans for the future that he and his friends had dreamed of. So I agreed to Penkovsky's list, and I had to tell my companies that this delegation was not really what they expected. That it was an investigating delegation of specialists coming just to look at the factories, and to report back.

Of course I knew what Penkovsky



IN MOSCOW with Wynne (left)
he met British businessmen

really wanted to do in England: I accepted his useless delegation with my eyes open, just so as to enable him to come quickly to the West and make contact with British and American Intelligence.

I had one advantage besides; I had by then had several years of experience of East European countries and their people and their way of life, and I had some notion of the anguish that many of them were suffering, because I had seen it at first hand. So I was caught up with Penkovsky simply because I was there. I happened to be the right person in the right place at the right time. And I believe that most British businessmen with my experience would have done the same.

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Before Lonsdale

It is worth adding, I think, in view of some of the more irresponsible comments made later, without any basis of fact, that all this happened before the Portland spy case, and before any of the British public had heard of a fellow called Lonsdale. The first Western contact with Penkovsky was made early in 1960; I myself began conversations with Penkovsky in December, 1960; the Portland trial was not until March, 1961. The suggestion that my arrest was engineered by Soviet intelligence purely to secure an exchange for the release of Lonsdale is entirely without foundation.

I met Penkovsky and his delegation at London Airport and shortly afterwards I took Penkovsky himself to my office. On the way I had to stop at Harrods to pick up a parcel, and took Penkovsky in with me.

As we went through the entrance he just stood there and gaped. Behind him buses and taxis unloaded customers. People pushed and jostled him aside. And he gaped at the dresses and goods in the store, and the people choosing and buying, the fitted carpets, the lighting, the general atmosphere. All he could repeat, again and again, was "Oh my people, my poor Russian people."

Russian delegates to Britain, whatever their status, are allowed only £2 5s. a day for their hotel expenses (including all meals) and 10s. a day pocket money. On the whole they can afford nothing better than boarding houses or cheap hotels in London, and they cannot afford to take taxis, go to theatres, or even go shopping to any extent. This is precisely the result that the Russian authorities hope for.

I was determined to give Penkovsky's delegation something better than this, and so I arranged that they should have reasonable accommodation at the Mount Royal Hotel near Marble Arch, and my companies would pay the difference. I explained that for meals in the hotel all they had to do was sign the bill.

The delegation arrived on a Saturday. On the Monday morning, when I arrived to take them to the North, the hotel manager took me aside; the delegates had been refusing breakfast. I found them all in one room huddled round a suitcase filled with tinned food, eating sardines out of a tin. Signing the bill is almost unknown in Russia and they had feared extra expense. When I gently explained that all meals were paid for, they ate everything in sight.

We set off for the North by car, and our first stop was Sheffield. None of the delegates had ever been to the West before, and none but Penkovsky had seen an English shop. On the outskirts of Sheffield we passed a Woolworth's, and I ordered the cars to stop. The Russians could not contain themselves; they ran from one counter to another—literally ran—picking up cheap trinkets, toothbrushes, combs, plastic pens, pencil sharpeners, rulers, photograph frames—anything and everything, as long as their money lasted.

The delegation's tour was a great success. My companies laid on luncheons, speech-making, flags flying, the Red flag and the British flag, the white tablecloths, the factories, and presents all round. And all this for nothing, really, all to get Penkovsky into Britain.

Time Off

He had more energy than most; he wanted to do everything, and investigate everything. He wanted to visit museums, art galleries, cinemas and theatres, and he wanted to see the interesting buildings and go into department stores. He was not particularly interested in the factories, he wanted to get that over and done with and have his serious discussions with "important" people.

But he would keep his amusements until the evenings. Then he liked dancing, and he enjoyed bars and nightclubs.

Later, when we were in Paris, we went to cabarets at the Lido and Moulin Rouge. It was the first time he had ever seen such spectacular shows, with the chorus girls in line: they don't have that in Moscow. "Why can't the Russians have this too?" he said. "It is a very live and happy art, and not so serious as the ballet."

In England, of course, he had to be extremely careful; after all he was the leader of the delegation. But in the hotels I had arranged for delegates to have double rooms, and Penkovsky a single room. This allowed him to come and go as he pleased.

Most of his social activities in London took place on his second visit, when he

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IN THE DOCK his grip revealed his tenseness

came alone to assist at the Soviet exhibition in July, 1961.

I went on holiday in Switzerland in August, and then on to Moscow for the French exhibition being held there. I stayed only four days, but saw Penkovsky, who warned me that there was a possibility of his going to Paris in September for the Russian exhibition. I suggested that I should meet him at Le Bourget Airport. In the event Penkovsky did not arrive until towards the end of the second week. I had had to go to Le Bourget some 16 times—and had to make myself inconspicuous each time I went. It was a nerve-wracking wait.

I had jotted down the timetable of the aircraft arrivals in a small engagement diary I kept on me. During a short visit to Belgrade a few days after Penkovsky arrived in Paris I missed this diary. It was produced again 18 months later—during interrogation at Lubyanka.

In Paris Penkovsky used to attend the Embassy or the exhibition during the day and go to some official dinners at the Embassy; but whenever he got away I was always waiting for him in a car at a pre-arranged rendezvous, and in Paris you can easily lose yourself. So we had quite a lot of amusement there, doing the usual tourist things, and he seemed to enjoy it very much. But he said he preferred England.

In Paris he asked me several times whether I thought he should stay in the West. Within four months he had visited the West three times. He had seen for himself the ordinary people in England and France, the number of cars on the streets, the rows of individual houses with their own gardens, how the department stores were crammed with goods. He was overwhelmed by it and filled with regret for the plight of his own people.

He would say, "Shall I stay? Shall I stay?" I would always answer, "I shall not influence you; it's entirely up to you."

I took him to the airport for his departure for Moscow. On the way heavy fog descended; few other people got through to Orly, there was no flying, and we sat together for four hours in the almost deserted airport. All the time he was asking, "Shall I stay?"

Eventually the fog lifted, and I said good-bye to him at the barrier. He began to go through, then came back again and said, "I will stay." I said, "Well, Alex, it is entirely up to you." I knew that he could stay if he wanted to. But he decided to go back. "I can help better if I go back," he said. "I have much work to do." He was not happy going back, but he was brave.

Back to Help

I heard in the summer of 1962 that Penkovsky was feeling very unhappy. Apparently he was looking ill, and his morale seemed to be low. As I had become his close friend, I thought that it would be a good thing if I went over to Moscow to cheer him up and to see if I could do anything to help.

I had no real reason for going, so I had to make one up. With considerable publicity it was announced that I wished to take two huge exhibition vehicles across the Soviet Union. I wrote to the Scientific Committee and the other organisations. I sent them pictures and in July I arrived once again in Moscow on the pretext of discussing this programme with the authorities.

Penkovsky met me again at the airport. I had not seen him for nearly a year, and I was shocked by the change. He was very white and not his normal self, and he was very worried. He said that he had been working hard, and he was in a nervous state. He thought he was being watched; and Mrs. Chisholm, the wife of an attaché at the British Embassy whom he knew, was also being watched.

"I wish I had stayed in France," he told me. "At the next opportunity I have of going to the West, I shall stay there—there is no question about it."

A proposed visit to the World Fair at Seattle and to a planned Soviet trade fair in Cyprus had been put off. But he had been told by Western intelligence how he could, if he wished, leave the Soviet Union. Now I brought with me a letter which cheered him enormously, gave him a boost in morale and enabled him to regain confidence. The letter showed him that his friends outside Russia had not forgotten him.

On the second day of my visit, I had an official meeting with the State Scientific Committee, and on the evening of the third day Penkovsky and I met. He was very reluctant to be seen with me more than once, and pointed out that we had better not go to the theatre, and that I had better not meet his wife. He thought it best that we should just have an official meeting and then part—but that he would rendezvous with me at the restaurant of the Peking Hotel because we had never been there together before. We never went to the same restaurant twice.

I happened to get to the Peking with some few minutes to spare, and I walked up and down on the other side of the street. I saw some characters standing around, but they did not seem to pay too much attention to me for the moment. I knew, however, that it is not advisable for a foreigner to loiter too long in one position in the streets of Moscow.

Then Penkovsky came along with his brief case under his arm, and I crossed

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"You must go away quick . . ."

the road and went up to him. Instead of greeting me, however, he just put his hand to his nose, lowered his head, and went straight into the doorway of the restaurant.

I followed him into the lobby. He looked into the restaurant, walked about, and as he was passing me he said something that sounded like, "Follow me behind." I gathered that there was something wrong, and I took the hint.

Penkovsky went out into the street and walked for a few hundred yards to where there was a gap in the buildings leading to a tenement area of wooden houses. He went in there, and as I was coming by he spoke to me: "Grev, quick!"

I went into the alleyway and he said, "You must go away now, quick. I might see you at the airport tomorrow but you are being followed. Go!" And he went out another way.

As I came out of the alley I saw two men standing there. And of course later in Lubyanka I saw photographs; they had had cameras.

In the Room

When I got back to the Ukraine Hotel—early, of course, as I had had no dinner—I went up to my room and asked the female "gaoler" who keeps all the keys in her drawer: "Key?"

"No key—administration," she said. I tried the door but could not open it, and the woman came after me and said, "Please, administration have key—please."

Now downstairs—17 floors down—nobody ever has a key, and I got suspicious. Still, I went down to the administration and waited 10 or 15 minutes, and nobody knew anything about my key. So I went up again and the woman greeted me. "I find your key."

I decided to check and see whether my room had been searched. I had brought with me a tin of Harpic disinfectant with an empty film canister concealed in a recess. I went into the bathroom—it was still there. I looked around, and it seemed that everything was in order.

But then I looked at my clothes. I fold my shirts in an odd way—I unbutton the front and turn the collars inwards to keep the dirt from them. But my shirts were folded with the collars outside—not just one, but all of them.

I knew then that the place had been searched. Later, after my arrest, I was shown a picture of the Harpic tin with newspapers I had bought on the plane and my blue mackintosh with the label turned inside out. My suits, my shoes, my soap and washing powder were all laid out on the bed—all in the picture. There was no question about them all being mine. And of course a close-up of the Harpic tin with the canister pulled out.

I decided to get out quickly. I was booked on a mid-morning flight to London, but I was down at the airport at six a.m. and took the first plane out, an early morning flight to Copenhagen.

Penkovsky arrived at the airport about

5.15 a.m., and arranged for me to go through the formalities quickly by showing his security card. He was still, it must be remembered, an important official. But he was obviously taking a great risk coming to the airport in his desire to get me out as quickly as possible. We said good-bye.

"Please tell my friends I'm very unhappy," he said. "Please, I must come away as soon as possible. I will try and get some more material for you, but it is now very dangerous for me and I must be very careful."

The next time I saw Penkovsky was through the spy-hole of his cell in Lubyanka prison.

★

GRADUALLY during my interrogation they began to feed me with more and more information which they had gleaned from Penkovsky, or from their own sources: Penkovsky and me outside the Peking Hotel; photographs of a package; photographs of Penkovsky and me with a sweet packet; Penkovsky returning to me a suitcase of mine outside the Ukraine Hotel.

So I said, "Well of course I have given Penkovsky presents. If you look at my luggage now, it is full up with presents. I have shampoo, I have records, cigarette lighters, ball pens—I have a case-full. They are for everybody, not only for the Russians who can't buy them but for other people."

"So you plead guilty to giving Penkovsky packages?"

"But I didn't say packages, I said presents."

"Well, maybe you didn't know what was in the packages."

And for the moment they seemed satisfied. This was all that I agreed to, that I gave Penkovsky presents. It could be interpreted as bribery to Penkovsky, and I thought this might satisfy them.

For the next five weeks or so the interrogation centred on this. Interrogation would take place at 10 o'clock in the morning for two or three hours, and then back to the cell; and then in the afternoon for three or four hours. Very gentle, very business-like.

"Now Mr. Wynne, do not be stupid, you must tell because we know everything. You have admitted to giving Penkovsky presents, and now I want you to listen to—just this little piece." And they would produce a tape-recorder and there would be Penkovsky's voice, and mine. There was sufficient to tell me they had been listening to conversations. There was one in the Metropole Hotel room in Moscow, one in a restaurant in Budapest.

And they said, "We know that you have very friendly relations with Penkovsky. What is this matter you speak of? You are friends. You were friends in London and in Paris. What is this?" In the conversation I could be heard saying, "I wish you well, Alex," and "I have a letter from them for you" and Penkovsky's voice—"Yes, in the letter they say very good things." They said it was against Soviet law to smuggle in a letter. It meant I was a spy.

I cannot really complain of inhuman treatment or that sort of thing at this period. They were stern, reasonably polite, food was moderate. For example they gave me milk each day, they gave me tea and occasionally an extra cup of tea at lunch time.

They did not shave my hair, and I was given my civilian clothes. "You see," they said, "we only took your clothes away because we wanted to see that you weren't carrying anything bad in them or anything of that sort, and we wanted to make sure that you weren't going to injure yourself. You might be in a nervous state and try to be foolish. Of course we don't treat prisoners badly these days, we are cultured people."

Having been there about a month I had a beard. I said, fingering my stubble, "You talk about Russian culture. Is this Russian culture?"

"Oh, but please you can shave, but of course a prisoner cannot use a blade." "But I have an electric razor in my case." "Do, please, then Mr. Wynne."

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speaking about the Press reaction to my arrest or anything like that, but she did.

It was now mid-December, rather less than six weeks after I had first arrived at Lubyanka. The interview lasted one hour. During my wife's visit no uniformed guards were to be seen in the prison, and even the officer who was in uniform at all times had changed into rather shabby civilian clothes. I can only assume that this was done to put my wife at ease. We were allowed to embrace.

The conversation we had was about Andrew, the house, our friends, and we didn't discuss much else. She asked me about the food and I said, "Well it's not quite like home. . . ." because at this period it was a reasonable prison diet, meat and fish occasionally, and at least I could eat most of it. They even gave me light-coloured bread.

She brought a case of things with her, some woollen clothes, fur-lined boots, pullovers, and she even brought a bottle of whisky, cigarettes, things like that. The Russians joked with her about the whisky, and she was asked to take this back. But I was given a carton of cigarettes and the photographs which she had left, and a letter from Andrew, and some books.

For four or five days after Sheila had gone, they more or less left me alone. But then I was brought in for interrogation again. At this interrogation there was a group of people. I recognised then that some were lieutenant-generals—there were about four or five that I had not seen before, but still "my" general was there, "my" lieutenant-colonel, and the same interpreter.

On this occasion I stood at the table for about half an hour — they did not invite me to sit. I started to feel in my pockets for a cigarette. The general shouted, "You are not here now to enjoy yourself! This is now serious. . . ."

"Now you have had time to think about things, we will start with the serious business of your spying activities. And anything that has gone on before we are regarding as complete and utter lies. But we will start from the beginning. We have plenty of time and you must stay here in real prison conditions until you decide to tell us the truth."

They said they would start with my first visit to Eastern Europe, which was to Poland in 1955. They had the date, they had the hotel at which I stayed, and they wanted me to start relating whom I had met and why I visited the country, and why I suddenly started to go to Eastern Europe. Who sent me?

I simply said that my mind would not go back as far as that, and if they knew at which hotel I was staying, they must have known the enterprises I had visited and the business I had done; that I was simply a business man, and as far as they were concerned I had nothing to tell.

They said that if that was the attitude I was going to take they would send me back to my cell and give me time to think. I was taken back to my cell, rather roughly handled, and shortly afterwards my civilian clothes were taken away and also all personal articles and cigarettes.

I had no woollen clothes, and they would not let me have those that my wife had brought. As a result I was pretty cold. I had to wrap some old towelling round my feet for socks, and under the thin cotton vest I put copies of *Pravda*, which came to my cell.

This was the only newspaper I had; they would not believe I couldn't speak Russian. They said that this was a blind, that I could not possibly have carried on my negotiations, and that British intelligence would not have sent me out there without knowledge of the Russian language.

For three weeks no one came near me. For three weeks I sat in that cell. They gave me a pencil and paper, though they took the pencil out of the cell at night, and told me to write my whole story and confession, which I did not do, of course.

I drew pictures on the paper, started redesigning my house, and laying out a new kitchen on paper. (When eventually I got back home I started to carry out these designs!) They did not give me any reading matter, and even *Pravda* stopped coming to me after about a week.

When I went to the toilet I managed to get other pieces of paper to keep myself warm. I did exercises in the cell to keep warm. I had a long pair of cotton pants, thin cotton overalls, no socks and canvas boots. When I went out to walk they gave me a dirty heavy overcoat.

View of the Sky

I had one hour's exercise a day on the roof of the Lubyanka, from which I could see nothing, only the sky. There was a tower, two armed guards who were in little boxes, and the little area of stone on the roof where I walked measured 12 feet by 12, with sheet metal walls and barbed wire on top about 14 feet high.

Occasionally I could hear other prisoners walking and chatting. Once I had a cigarette thrown over to me. If you wanted a cigarette you just knocked once on the wall, and if the fellow next door had got them and the soldiers were not looking, he would throw one over. If you were caught you got an extra punishment.

I took the risk and threw notes over.

Apart from the barber I never saw any other prisoners. Nor was I allowed access to anyone from the British Embassy, though I repeatedly asked to see somebody.

The Best Suit

One day I was taken out of my cell into a room where my suitcases were opened. "Which is your best suit?" the guard asked. "We want to clean it, we want to look after your things." I chose one, and an hour later they brought it to me and said, "Put this on." They brought me a tie and they took my shoes away and cleaned them. The warden told me, "You are going to see some other people away from the prison."

I was taken to the main administrative block. We stopped outside a door, and an interpreter came out. He said, "Mr. Wynne, when you go into this room you will be very pleased in what you see. But if you speak badly about anything the meeting will be over. Remember that." I did not know what he meant.

He opened the door, I walked into the room, and there was my wife Sheila. And there too was the lieutenant-colonel. Sheila had also been told by them not to

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... you are being followed

The guard couldn't look everywhere at once, and occasionally while we were being led the guard would be distracted. I contacted about three prisoners during the six months I was there.

It was bitterly cold walking, but at least, however, it was fresh air and exercise. In my cell I spent most of the time cleaning and polishing, because it was pretty dirty. I did exercises, and I could go down the corridor to the cold tap once in the morning and once in the evening. I could shave only when I went to the bathroom every 10 or 12 days. The barber had electric clippers, with the result that you never had a clean shave. The hair they let grow; now it is clear to me that they had in mind my appearance in a possible public trial.

By now the food was pretty grim. During this three weeks they gave me a very bad diet indeed. I had one and a half lumps of sugar in the morning, four inches of black bread, about eight ounces, ghastly bread which was all moist and terribly indigestible. I had terrible gruel made from coarse grain and water, the Russian prison porridge, and weak tea, very weak indeed, once a day.

Bad Diet

It was very nearly a starvation diet. In those three weeks I must have lost a lot of weight, and they were making me as uncomfortable as they possibly could.

I thought: to hell with them. If this is their attitude I shall adopt a bloody attitude as well. Because this was the only way I could maintain my morale.

During all this time, of course, I was not allowed communication with my wife; no letters; no books. Nothing to read, nothing to do at all except scribble on the paper I was left. At the end of three weeks I was again brought up for interrogation. And there again were the general, the colonel and the interpreter.

"Well, you've had time to think about things. Where are the notes you have written?"

I said, "I haven't written any notes" and the guard handed over all the papers that I had been fiddling about with, drawing my kitchen and several motor-cars; I had just amused myself on it. They didn't like it at all, and said if I persisted in this attitude it wasn't going to help me or anybody. Eventually they started questioning me, all over the same old things again. We did not get very far because I just said I had nothing to tell them.

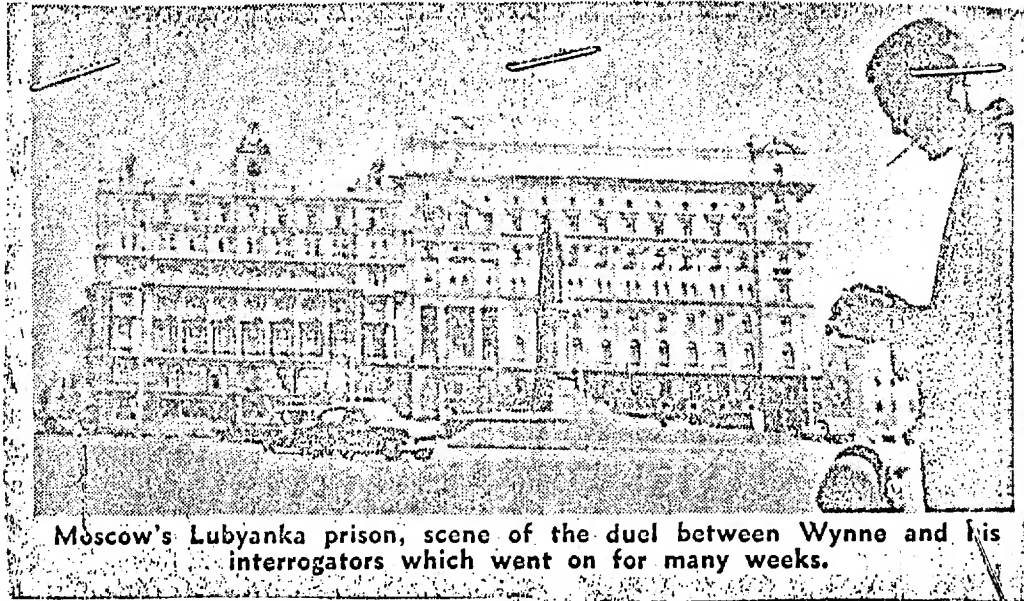
Then, about two days later, they brought me up from my cell, they took me into another room. There were altogether about eight Russians, including some lieutenant-generals and an interpreter.

And sitting on a chair was Penkovsky. This was what they call the show-down—the joint interrogation.

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NEXT ARTICLE: How They Rigged the Trial.

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TO THE POINT

Tip of an Iceberg

WE publish next Sunday the final instalment of Mr. Greville Wynne's story of his experiences as prisoner of the Russians. That should be the signal for Moscow to issue, as promised a fortnight ago, their version of the arrest, trial and return of Mr. Wynne in exchange for Lonsdale.

The purpose of the story to be told in *Izvestia* will be to stress the intelligence side of an episode which was, and still is, of great political significance. The motives which drove Oleg Penkovsky into contact with the West are widely felt among the technical, military and literary intelligentsia of the Soviet Union: impatience with low living standards, drab lives, stifled discussion and constant supervision.

"He was the tip of an iceberg," Mr. Wynne wrote last week about Penkovsky, "there are lots like him below the surface." This is the essential point that we confidently expect *Izvestia* to avoid, even though its editor is Khrushchev's own son-in-law, Mr. Adzhubei.

Thanks to the B.B.C.'s fortnightly 5-minute programmes to the Soviet Union called *Through British Eyes*, broadcast yesterday unjammed, a key section of people there will have heard what a European Service spokesman called "references and short quotes" to do with the Wynne-Penkovsky story.

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How They

Rigged My Trial

Like its famous predecessors it was not what it seemed to the world. What goes into the staging of a Moscow trial today is revealed in this third article by the British businessman gaoled as a spy . . .

By GREVILLE WYNNE

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Under the symbol of Soviet justice, the President of the Moscow Military Court reads the sentences: eight years for Wynne, death by shooting for Oleg Penkovsky. The verdict of "guilty," just as in Stalin's day, had been taken for granted by all concerned.

UNDER SEVERE interrogation in Moscow's Lubyanka Prison Wynne refused to make admissions. Eventually he was brought from his cell to a room in which there were about eight Russians, including several lieutenant-generals, and Oleg Penkovsky, the Soviet official accused of spying with Wynne. It was to be a joint interrogation: the show-down. . . .

AS I walked into the room Penkovsky stared at me in complete fright. Obviously he was greatly shocked to see me.

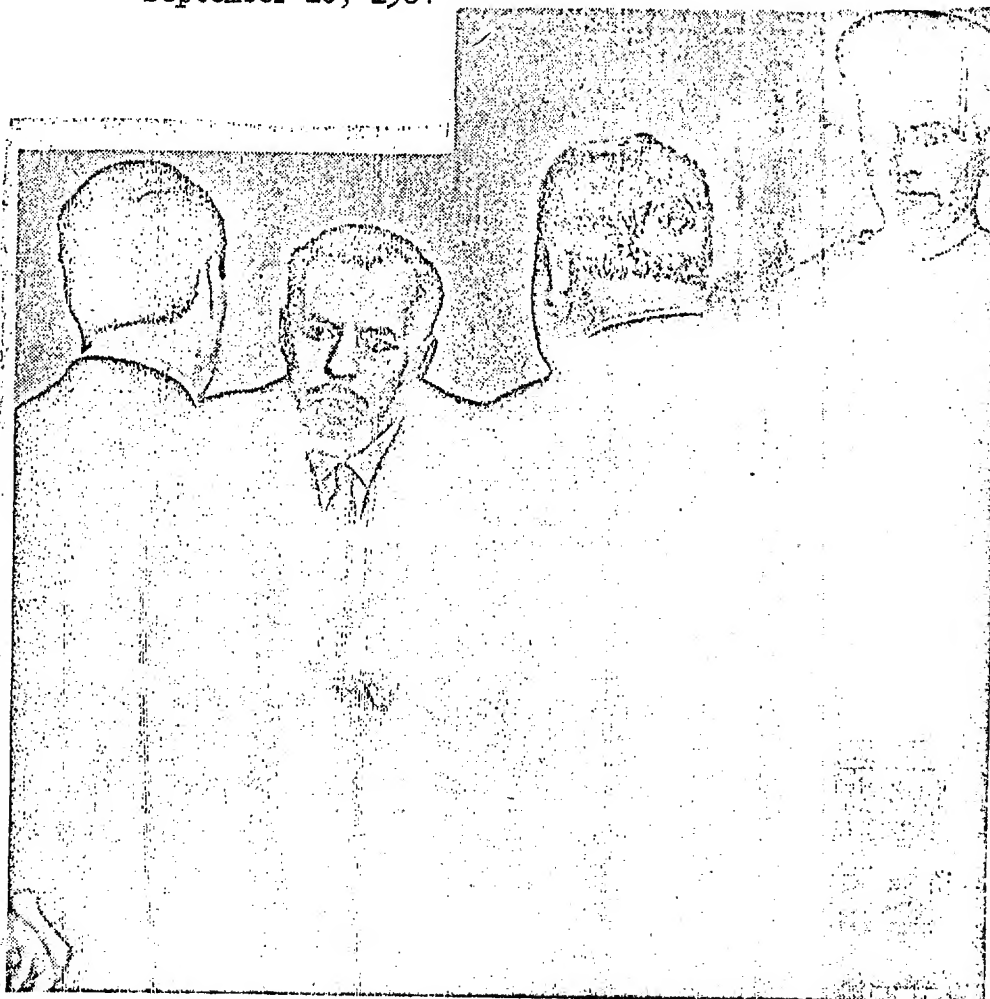
He did not know that I had been arrested, and did not even know that I would ever go to Eastern Europe again, having been warned. And, as I was soon to learn, he made his statements at interrogation on the assumption that I was far away.

Penkovsky looked ghastly. He had a stubble beard, looked terribly pale and drawn: he must have had a rough time of it. I had known him so well when he was normal, happy, and full of life, and it was terrible to see this man so haggard and white and dirty.

They opened the joint interrogation by saying, "We have brought you here to see your comrade in crime, and to show you that we know all. What we want is for you to tell us." And they then read a statement, they showed me some documents, and there it was. Penkovsky had been caught with films and documents on him and had been forced to tell them a great deal.

They read out a statement from him that I was the master spy, that I was the chief intelligence officer, and so on. Then they turned to Penkovsky, "Here is your comrade in crime. What do you have to

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After hearing the sentences Wynne talks to his Russian defence lawyer (foreground, right) and interpreter.

say now? You think you've been clever. We've got him, and if there's anybody else we'll get them too. You don't know who else we've got in those cells; you might have a few other surprises in a moment."

Penkovsky did not know what to believe. He looked pitiable. Then he spoke to me through the interpreter, "Ah, Greville, I didn't think I should see you in these conditions. Forgive me."

I said, "You've been telling them I'm a spy. You know I'm a businessman. What is all this?"

Then Penkovsky said to a general, "I told you about Wynne. Yes, he helped me, but there were other people more important than him." Then they took Penkovsky off to the cells.

"Right," they said to me. "Now—how did you help? You know what will happen to both of you—you will be shot if you do not tell us the truth."

I said, "You shoot me? Never will you shoot me. Go on and shoot me now." I wasn't being brave, I was just angry.

This went on now for days, for weeks. They talked, they questioned, they threatened, they took me back to my cell. I was brought up in the daytime and at night. I went to sleep and then suddenly was woken up. They made me stand up in front of bright lights.

And it lost most of its effect because of the interpreter. This helped me greatly. I know only a few words of Russian so I had time to think. By the time the translator had translated, and then he wasn't sure what I said, all the storms and threats and rages had lost their effect.

They even brought out books of photographs, saying: "Tell us who you know in these pictures." It was a collection of pictures of businessmen who had been to Moscow. Some of them were passport photographs, and some of them were of

people coming out of the Embassy. I said, "Well, this is silly, these are business people. You know that I know this man and that man. . . ."

Then they showed me a whole series of other photographs. Frankly some of the faces were familiar but I said I did not know any of them. If I had once admitted knowing one of them, there would have been no end to the questions.

On the Tape

They showed me a film they had taken of me meeting Penkovsky near the Bolshoi Theatre. They played to me on a tape-recorder a conversation I had had in the Ukraine Hotel with Penkovsky showing him a letter from our people, and of course I had denied all this. I was saying, "Well, is everything all right?" and he said, "Well yes, it's about my escape, they have good plans for me," and I said, "Interesting?" and he said, "Yes, interesting. One idea is to go by submarine"—it was all on the tape.

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I remember the room in which this conversation took place. We had turned the television on, and there was also a radio loudspeaker and we turned that on too. And in spite of this we could hear exactly what we said, although we could hear the background music also.

Now this was evidence—I could not deny it. I just sat there and did not answer. "You see, Wynne, we know all about you, and you will never go out of the Soviet Union again. Who are your friends? Who else is working with you? Which Russians do you know?" And of course they had photographs of me in the streets talking to Russians.

Some of them were students who had come up to me as I was walking in the street. This happens to most Western visitors who walk alone in the streets of Moscow. Sometimes the students want souvenirs. Sometimes they seek information, sometimes they want to do a mild blackmarket deal.

One of the generals said, "You think that people like you can come to my country, to the Soviet Union, and fool us? You think you can meet Russian people and teach them your crazy capitalist ways? A man like you can come here and meet the same man once, maybe twice, but never three times."

Now this is the key to the whole Soviet attitude. If a businessman goes to the Soviet Union he will rarely see the same man more than twice. The next time—when he thinks he's getting really in and the contract's coming up—he may go back to the enterprise and ask for the same man, but he will never see him. One can only assume that if a businessman makes contact with any Soviet enterprise he is watched immediately.

Night and Day

The interrogation went on night and day for about five months. It did not get any further. During that time, however, Penkovsky altered his story quite considerably. After interrogating me they would go off and ask Penkovsky, and then return and interrogate me again.

They were worried about Kulikov (a Soviet official in London). They got pretty rough during one long interrogation; they raved on about the dirty work I was doing against the Soviet Union, and how their people were only interested in peace and culture.

"Peace and culture! What a lot of nonsense! If I wanted to be mixed up in a spy-ring I could have done so at any time, because apart from being approached in other European countries even the Russians in London had approached me to try and get British secrets."

"What is this? How dare you say this? Who was your contact?"

I told them about Kulikov, I said that we had been several times to the Highgate Soviet Trade delegation and I told them about the meeting in the garden on Chelsea Embankment.

"It's a pack of lies!" they screamed. "How can you tell them? How could you help us? You are just an ordinary salesman."

"Oh, I'm a salesman now am I, not a spy? Thank you very much."

"Oh well, we mean you are in a position of spying as a businessman. How can you help Kulikov? It is ridiculous to say that he approached you."

And of course like a fool I said, "Well this is what he said" and then proceeded to tell them. About a year later they played this tape back—mutilated. But that's another story.

It was now nearly six months since I had been arrested, and still there was no news of the trial. I was holding out on them. I threatened to ridicule them in court, to expose their methods, to tell all about the approaches made to me in London by Kulikov, and other matters.

My attitude made them progressively more angry, just as it helped to keep up my own morale. But gradually it was borne in on me that if they chose to hold

the trial in camera, which they threatened to do, there was nothing to stop them. And not only would they then be able to do anything they liked, and be able to put out any statement about so-called "confessions" that they wanted, but I would lose an invaluable opportunity of getting a message across to our own people. With this in mind I gradually came round to accepting an open trial.

Shortly after, Penkovsky was brought into the interrogation room to talk to me, in the presence of soldiers; the interpreter said that Penkovsky could speak English, because Penkovsky wanted to speak to me privately. It was obvious to me that there would be microphones in the room, but there were only two soldiers present.

It was now that Penkovsky said to me, "Greville, you realise that if you're going to make trouble in court—if there isn't a public trial—then they can do anything. You realise that my life now is almost in your hands; that if you persist in your threat to make trouble in court and to tell a lot of things which would be bad for the Soviet Union, then they will be forced to have the trial in camera as they told you."

"I ask you Greville, please, it must be a public trial because if not I am sure I will be shot."

"They have promised me my life—you see—I had all evidence on me when I was caught—and I could not say anything about it, I could not tell them just a little bit because then they would know I was lying. As far as the Americans and British are concerned the case is over; they won't lose anything by it, they won't gain anything by this business. It is foolish of you to be difficult and to say that you are going to shout in the public trial about anti-Soviet things."

I said "I sympathise with you and I'm sorry it's come to this, but you don't expect me to go into court and say, 'Oh I'm sorry for this, that and the other,' because I'm not going to do this. I have my own country and my own way of life to protect. I'm not a hero, but I will never betray my own way of life, because I've seen how Communism works and I don't like it."

His Motives

Because his life had been promised him, and also perhaps for the same reasons that motivated me, Penkovsky agreed not to make an anti-Soviet demonstration at the trial, but to go along with the prosecutor's caricature of a man corrupted by the pleasure and comforts of the West. But to his Soviet interrogators he made it quite clear what his real motives were. Both in the joint interrogation and in statements of his which were read out to me Penkovsky told them bluntly that he had acted, not to help the West but to help the best interests of his own people.

About this time the food was improved. I had been sick and I was getting a bit weak. The doctor recommended that my diet should be changed. I had meat every day, I had fish every day; the milk was restored; I had white bread, and they even gave me eggs every day for breakfast and an occasional sausage.

They were feeding me up for the trial—this is clear to me now. Sheila, my wife, had sent some jars of Bovril which I had not seen up to this stage, and some Nescafé, toilet soap and things like that, and these suddenly turned up in the cell. In addition the doctor gave me vitamin pills.

Meanwhile other preparations for the trial were going on. For a week or two the prosecuting team had been present at my interrogation. The one they said would cross-examine me at the trial was a big, fat, red-faced fellow with a bark like an Alsatian dog. He was a rough character. He spent all his time shouting.

I wasn't put out by it; I had had so much of it that it just flowed over me. I just said, "Well if you're going to shout like that—I can't understand what you're saying anyhow, it's got to come through the interpreter here, and I don't understand you—you will only make yourself irritated."

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It was just a morale boost for myself, but it had a surprising effect. After a couple of days he threw his ruler down on the desk, yapped in Russian, and swallowed some aspirins. They told me afterwards he had given me up. In a way it seems quite amusing—now.

Another prosecutor was appointed. He too began with shouting. But I would say, "Excuse me," and have a quiet conversation with the interpreter, and then say "What was that?" This prosecutor would quieten down, while the first one just got red in the face.

One day I was asked, "Would you like to have legal representation?" I answered at once, "Sure, I've got a good man in London." That did not go down at all well; they've got no humour.

"I know you people too well," I said. "Please dispense with all this." They didn't like this either; they got very cross, and said, "We have a man if you are interested."

Borovik was produced. "Here is Mr.

Borovik, who will represent you at the trial. We will leave you to talk with him for five minutes to see whether you get on." And they went out.

I said, "Mr. Borovik, who are you?" He said he was a lawyer from the Central Legal Bureau in Moscow. He was about 48, and a real product of the Communist system. Here was a man who was a qualified lawyer in the Soviet sense, who had never been outside the Soviet Union, and had not the slightest knowledge of the outside world, let alone of Western judicial practice. And now he was supposed to represent a foreigner.

I said to Borovik, "This is all a waste of time. I'm supposed to talk to you for five minutes to see whether we like one another, and if we don't they will only produce someone else. Now there's nothing you can really do for me, Mr. Borovik, is there?"

"Oh, Mr. Wynne, really I am a lawyer. I come from the Central Legal Committee. I am here to defend you."

Then the prosecutor came in, together with the lieutenant-colonel, my interrogator, and two or three other people—all while I was talking to the defence lawyer. Notes were being taken all the time. This was Soviet justice.

The following morning I was given back my civilian clothes and I was allowed to use my electric shaver. When I was tidied up I was put into a car and whisked through the streets of Moscow to the buildings of the Soviet Supreme Court. They were ready for a rehearsal.

I was led into the courtroom. The judge himself wasn't there, but there was another general who stood in the judge's desk on the platform. But the prosecutor was there. He was running through his part with Penkovsky in Russian.

Penkovsky looked very sad, though he seemed better than when I had seen him before. He had shaved and had a little more colour in his cheeks, but his eyes were moist and drawn.

And then they came to me. They told me that there would be an open trial, but that I must understand that if I stepped out of line in the slightest way they could stop the proceedings and have it all in camera. They said I could not have notes. But I was saying, "My memory's bad, I can't remember dates, I can't remember anything else." And after much argument they eventually allowed me to keep the questions and answers.

This was just what I wanted: I could now show the world that all this had been carefully prepared and rehearsed, and that it was not a genuine trial at all. They told me I could keep my notes and papers on a low-level shelf just in front of me.

At the rehearsal I could sit back listening to the translations on my headphones, picking up my notes and reading them ostentatiously for all the world to see. But at the trial they shortened the lead to my headphones, so that I had to lean forward and keep my head down in order to listen to the translation and read my notes at

the same time, so it would just look in court as if I was concentrating.

Borovik came to the rehearsal and tried to put me at ease by saying he was legal and important, and it was Soviet justice, and all the rest of it. He gave me a cigarette and he gave me a bar of chocolate—I hesitated about eating, but I was so hungry that I'm sorry to say I gobbled it up in one go.

I did not see Borovik again until two days before the trial. He brought out all the documents and went through them with me. He wanted me to sign that I had read them. Now up to that time I hadn't signed anything—I had refused on principle. But he said that from a legal point of view the British Embassy would want to know that I had seen the documents. It was in my own interests, he claimed.

It was true that they had read these conversations and discussions out to me. Therefore on their insistence I signed these documents to say that this translation had been read to me and was correct, not that I had made all these statements and agreed with them.

The trial began on May 7, 1963. At the Supreme Court we came in through barricades and all other traffic was diverted. When I later sat in the court the windows were wide open and there was heavy traffic outside in what was normally a quiet road. The noise of this diverted traffic drowned most of the proceedings in court. All the Western representatives there have since confirmed that they could hardly hear a word.

Wife in Court

I had a little difficulty in finding my wife in court because she was hidden in a mass of people. But after about five minutes we caught each other's eye. I started to put up my hand to wave, and the guard knocked my hand down. However, I succeeded in doing it later.

I noticed during the trial that the front rows of "public" benches were filled with the same people each day. They seemed to me obviously a picked audience. Whenever the prosecutor made some point at the expense of Penkovsky or me they would applaud loudly.

The first day of the trial was taken up with Penkovsky. On the second day they turned their attention to me. I soon found that they had a means of controlling the volume of my voice as it came through the microphone. There were three English-speaking interpreters at the trial, and two of these always sat at a table with a knob on it which they twiddled frequently. I am quite certain that they deliberately turned my voice down—or even off. On one or two occasions when I got close to my microphone to speak, when I was deliberately stepping out of line, I could not even hear the echo of my own voice. The microphone was dead.

The result was certainly effective. English-speaking people in the courtroom could follow very little of the proceedings, what with the doctored microphones and the noise of the traffic outside, even though there were loudspeakers throughout the courtroom. Still, I did my best to get my message across.

I wanted to demonstrate that I was under control in court to a certain extent: I was determined to let my own people know that I was referring to notes, and to show them that I was not just playing the Russian game completely. I therefore took the opportunity when it occurred of saying on three occasions to the judge, "Excuse me, I must refer to my notes." Again I emphasised the point. "Well, do you want me to speak now?" to get it across to the Press that I knew what to say next. I wanted to make it quite clear that it had all been prepared and rehearsed.

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THE MOST TERRIBLE THING ABOUT THE WHOLE TRIAL
WAS HEARING THE MAN SENTENCED TO DEATH

The prosecutor said, "When you were in Chisholm's [a British Attaché's] apartment you said in your interrogation that you spoke quietly to him. What was the point of speaking like this? There were no Russians there in that flat."

And I replied, "Well it is no secret to people in my country, and people in other countries, that there are microphones planted in diplomats' apartments in Moscow." They were livid. The prosecutor changed immediately to another subject, and my reply was dimmed down by the switch.

During the lunch recess the interrogation officer came to see me in my cell, together with the prosecutor. They warned me that this was a statement which would get me into serious trouble; that this was the last warning that I would have; that I would be treated accordingly for this mistake when I got back to prison.

I wish I could say that my efforts to attract the attention of Western correspondents to my position were rewarded. But I am sorry to say that, what with the inaudibility in the courtroom and the natural inexperience of most of the Western reporters when it came to Soviet "trial" methods, very few of my gestures or remarks, made at not inconsiderable risk to myself, were noted in the English or other Western newspapers.

The trial went on in public for four days. And then they had to change their plans because I had again been a little difficult.

I was asked, "Are you repentant, Wynne?" I had been told to say, "Oh yes I am now repentant; I am very sorry for having committed this crime against the Soviet Union because I have only found friendship and hospitality and peaceful co-existence on all my previous visits." It had been written out for me, but I could not bring myself to say it.

What I did say was, "Well it was not my wish to come to the Soviet Union and abuse the goodwill which I always found among the trade enterprises in the country." This was no more than the truth, for I was only referring to a limited circle.

They were furious about this, they were absolutely livid. The next day I had

a blasting from them in my cell in Lubyanka, where we went back every night. This was the end, their patience was exhausted. It was announced in court the following day that the final statements from the defendants would be heard in camera.

Comrade Judge...

When Penkovsky began his final plea he was really in a bad way. He started off: "Comradé judge, you have listened patiently at this trial. I ask you please to remember that I have also given service to the Soviet Union, I was a soldier, a loyal Serviceman, I ask you to be patient, and I give my plea for your consideration before you pass sentence."

Then he stopped, with tears in his eyes and his handkerchief out. This was very genuine. He spoke to the judge and Borovik came to me and told me that Penkovsky had requested that I should not be present for his final plea—"he would feel better if you weren't there"—and would I object to going out?

I did not want to embarrass Penkovsky, so I went. I could hear his voice; there was only a door between me and the courtroom, and a little trapdoor in the cell door, and I asked for that to be left open, as it was very hot in this cell. The guard let the door down and I could hear Penkovsky speaking for a long, long time, and I heard sobs.

When I got back to give my plea he was really in a bad state. My plea was written for me by Borovik; I just said that there was nothing else I had to say, that the trial had taken place in a Russian court and that I certainly hoped that I would not have to spend a long time in prison, and that if there was any sort of clemency would they bear in mind that it was my son's birthday today—the day of the sentence. It was a lot of blah, it meant nothing.

There was a wait of about three or four hours, and then late in the afternoon we came back into open court to hear the sentence. The prosecutor had

demanding 10 years the previous day; I had figured out that if it was 10 or 20 it wouldn't make much difference.

I knew that they had got a Russian man in England, of course, but it did not enter my head that there might be such an early exchange, though I had every confidence that my wife and my own people would seek my release before the sentence expired. I did feel, however, due to the severity of their interrogation, that they took the whole matter extremely seriously, and I thought I would be there for about five years.

When the sentence was pronounced I was concentrating on the translation, and at the time I don't think I blinked an eyelid. The fact that it was eight years when the prosecutor had demanded 10 years did not mean anything to me. I am not playing heroics now, but after six months of interrogation, as far as I was concerned I had had six months of trial, and this was just another act to me.

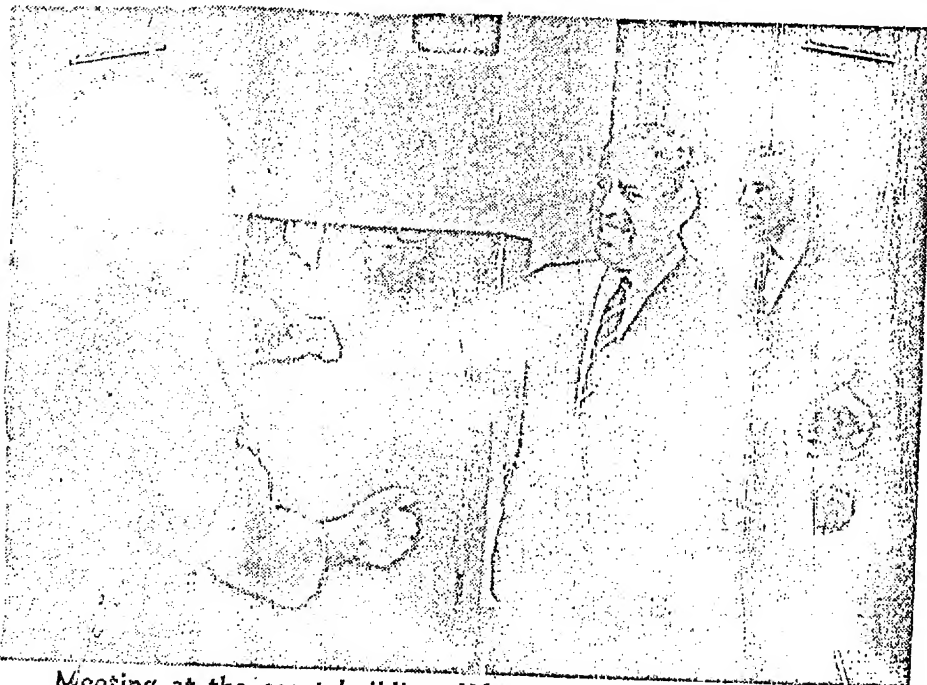
I watched Penkovsky closely when he was sentenced. His hands were twitching and perspiring; he was moist all over his face; he was pale; his eyes were moist. And when he was sentenced his whole body seemed to relax completely and his hands stiffened; they were red and wet—he was obviously in a terrible emotional state. From a distance I do not think people would have noticed this. He certainly did not collapse or faint—he took it like a man. After all, he was a brave chap.

Then occurred what I think was the most terrible thing about the whole trial. As this man was sentenced to death the Russian people in that court were not satisfied. They moved from their seats and came up close to Penkovsky and clapped in his face, and jeered and laughed at him.

Now this is not the behaviour of a cultured race. This shows them up for what they really are. All this torture and agony is what they thrive on; this is real Communism in action. It was terrible—the Soviet society, trying so hard to prove itself an adult and cultured one, clapping at a man who has just been sentenced to death.

Those people who clapped and jeered

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Meeting at the court building, Wynne and his wife Sheila.

obviously had not the faintest idea what the Western way of life was like. They were a completely ignorant crowd who had gone from the cradle to adult life full of this terrible Communist propaganda: this was their existence, and they had nothing to compare it with.

But Penkovsky had seen the other way of life; he knew what the Western way could produce, with people free to work as they chose, free to be educated as they chose, free to seize an opportunity when it arose, free to express themselves in art, thought and religion. He was convinced himself, and he kept on saying that many other people were convinced also, that the system in the Soviet Union was wrong and that he wanted to help to bring about change to "a more liberal form of socialism."

He never said to me that he wanted an easy life, and wanted to live in the West. He said, "I am Russian, it is my country—therefore I want to help my country change its political system."

Penkovsky proved himself to be a brave man. He had access to great secrets—some through his highly-placed friends, others on his own account as an intelligence officer. He had to give a lecture or write a thesis twice a year—he was still a colonel, a member of the Communist party and of military intelligence. It was admitted in court that a lot of information on rockets was sent to

England. The Russians never really admitted to me how much important material was sent out—they told me little of Penkovsky's activities, they tried to make him out to me as a fool. But I know better.

"He is Alive"

I am convinced now that the Russians had got wind that there was an undercurrent in high circles. Immediately after the trial Marshal Varentsov, a rocket expert, was relieved of his command. More than 300 diplomats and agents were ordered home from abroad.

But if they knew some of the people involved they certainly do not know them all. The Russian rulers are probably playing a waiting game; they might keep Penkovsky on ice in some isolated prison, in a camp or in an isolated village for a couple of years, to see if anything else comes out—so that they can interrogate him further. This is what I feel has happened. In my opinion they would be foolish to shoot Penkovsky unless they held an execution attended by eye-witnesses. I would have said that they had not shot Penkovsky, that he is still alive.

There are other reasons which make me think this. There was the promise to spare his life, and his appeal to me that his life was in my hands. Then there was the way that he took his sentence. He was under a terrific emotional strain, of course. But he did not collapse; he just stood rigid and faced these people in the courtroom who were clapping him.

I did not see him after that. I went back to Lubyanka. Where he was taken I do not know.

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NEXT ARTICLE:
In a Soviet Prison.

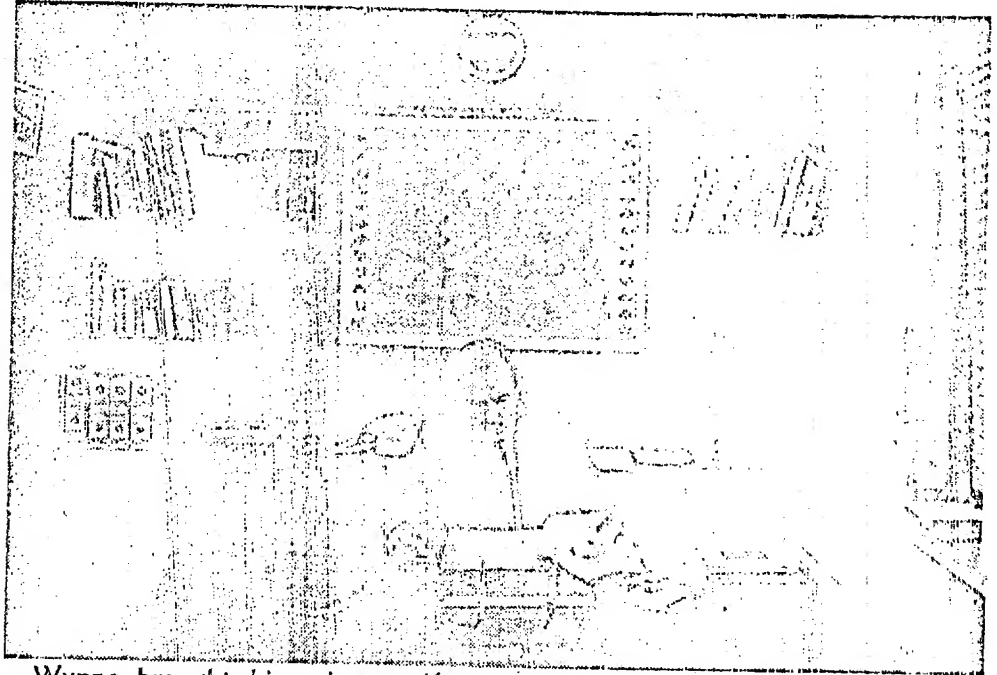
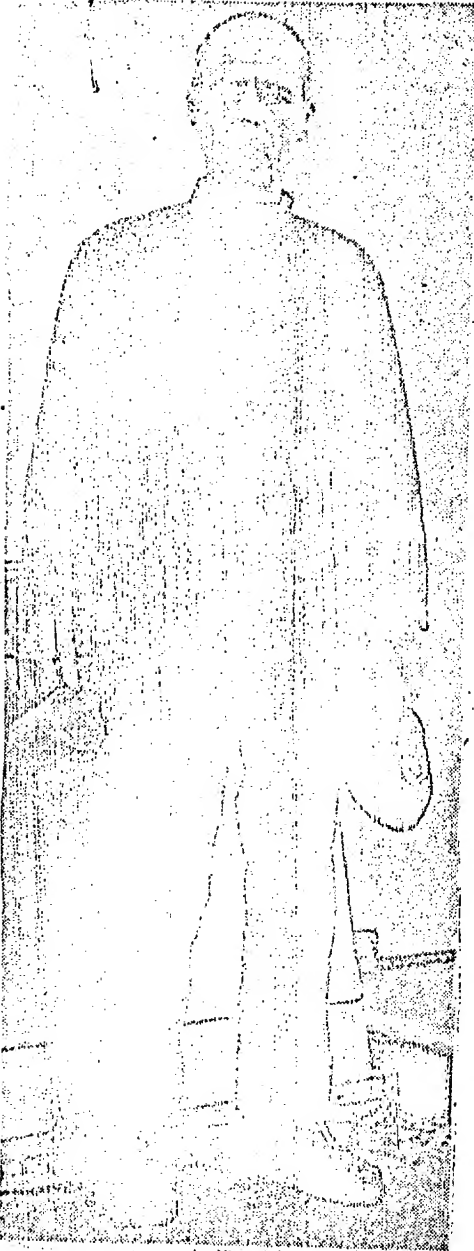
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His appearance on his return from Soviet imprisonment spoke more than words about how he had been treated. Now Greville Wynne continues his story by revealing at last the full extent of the ordeal to which the Russians subjected him in their attempt to extort information.

My Life in a Soviet Prison

By GREVILLE WYNNE

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Wynne brought his prison uniform and mug back with him, and posed for the picture at left a few days after his arrival. Above, a recent picture taken at his Chelsea home.

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AFTER the trial and my sentence to eight years' imprisonment I was allowed to see my wife Sheila twice—for half an hour immediately afterwards, on Saturday evening May 12, 1962, and for a longer period on the following Monday. Each time I was warned to behave "correctly," not to "make insults"—in other words, that I was not to talk about the phoney trial, the interrogation, or conditions in prison.

But I managed to convey something to her. I spoke in whispers; I guessed there would be hidden microphones.

The greatest stroke of luck, however, was that for the first time a number of cameramen had been assembled in the room. I said, "This is a private meeting. Get out!" And because I got angry in front of Sheila, they got rid of the cameras—to give the impression that I was being treated normally. It was while the guards were telling the cameramen to go that I told Sheila a few important things.

After the trial I was in Lubyanka for about a week. My Soviet lawyer, Borovik, came and showed me the appeal to President Brezhnev for clemency which he had prepared and which I copied out. Borovik said he would visit me in prison, and asked about his payment. I had been told that the Soviet authorities would pay his fee; now he said that he would not get very much and would have to pay a lot of tax on it. I agreed that I would pay a moderate additional fee—to cover his tax. I never saw him again for a year.

Then I went before the lieutenant-colonel and the interpreter who had undertaken my main interrogation (the general had disappeared by then). The colonel gave no hope of a remission and said I had made things worse for myself.

The following morning I was shown all my suitcases. Of course they had helped themselves: my £100 gold watch had disappeared, a pair of new shoes had gone, one of my new suits had been ruined, another had disappeared, so had an overcoat, a camera, an electric razor. They told me my car had been confiscated (I have never seen it again), and in my car were an electric typewriter and a tape recorder and—the most awful thing—my personal kit of tools had gone, in which I had taken great pride.

An hour later I was taken from Lubyanka in a car. We travelled about

three hours—90 miles to the north-east of Moscow—to the town of Vladimir.

Lubyanka is bad enough; but at least they put on a bit of a show because it is a headquarters. But at Vladimir prison the soldiers were filthy, needed a shave, and their uniforms were old and threadbare. There were 12 soldiers in the reception hall when I arrived, and I was made to strip naked. The soldiers stood watching and laughing. They made me bend down to see if I had hidden anything, but I could not bend properly because I had steel pins in my legs, so they kicked me, still laughing and jeering. It was the first but not the last time that I was assaulted.

Eventually they gave me back my clothes, packed my other clothes in the suitcases and tried to make me carry them. Now I cannot carry heavy cases because of my legs, so they knocked me about to try and make me. But I refused, and left the cases there.

The Cell-mate

I was put in a cell on my own for the night, and they gave me the usual cabbage soup and very weak tea. Early next morning I was taken to the showers. It was a filthy place. They shaved off all my hair and my moustache, and I was taken back to another cell. There I found an American student called Marvin Makinen. He had been arrested and sentenced on a spy charge about a year before, and had now been in solitary confinement for over four months.

Makinen had what was known as sick diet—fresh white bread and milk. I did not: I had what was more or less starvation diet—gruel and wet potatoes and black bread. Makinen refused to touch a mouthful until I shared his diet.

There was a rule that prisoners had to stand to attention when the guard came in. I took the view that until I was a soldier in the Soviet Army I would not stand up for anyone. This attitude was good for my morale. You see the Russians do not like being challenged in their authority, and they do not know how to react when they are. So when the changing of the guard took place, the old guard showing the new guard the prisoner, I just sat there, and stuck it out.

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The female gaoler called the corporal, the corporal called the sergeant, the sergeant called the captain, the warden turned up and the whole circus was outside. I said I was going to go on sitting there, never mind if the general came. And, by jove! the general *did* come—about a month later. They did not like it at all; but they gave me up after that.

Of course, at first I thought Makinen might have been another plant, and I was very guarded with him. But I was soon quite sure about him, and grew to like him very much.

Makinen had been allowed to order newspapers for his cell, so besides *Pravda* we got Communist newspapers from East Germany and France and Spain—he really just wanted something to read and keep up his languages. But he also got a Finnish paper—being of Finnish extraction, he knew this very difficult language. Now the warden must have thought Finland was part of Russia, for the paper he got was not a Communist but a Conservative paper, giving all the Western news and blasting the Russians. When they realised that we were enjoying the paper it was stopped.

There was a loudspeaker in every cell giving piped broadcasts from Radio Vladimir from 6 a.m. to 8 a.m., from 12 noon to 1 p.m., and from 4 p.m. to 10 p.m. There were also loudspeakers outside the prison block directed to buildings that had wooden covers over them—punishment rooms. So you could not get away from the noise. The broadcasts consisted of political speeches, anti-religious broadcasts, lectures on dialectical materialism and so on—I could not understand much; but Makinen translated.

At six o'clock the radio blasted off with the Russian national anthem. You were supposed to stand up for it, but I never did, neither did Makinen. Then they broadcast the punishments awarded to other prisoners—or when prisoners were awarded parcels for good behaviour, or production figures in the prison workshops, and other details of prison routine. Then somebody would read a culture story about dear old Lenin. When I arrived it was Penkovsky, Penkovsky, Penkovsky all the time on the radio.

Makinen had a free issue of tobacco, which he shared with me. There were no cigarette papers, so we had to roll them in pieces of *Pravda*. But for the first few weeks they gave me cigarettes—Sheila had brought a carton with her and I was allowed these. I had some books and some paper; you could get a

book from the prison library once every 15 days. Apart from Marx and Engels and translations from the Russian, there were some interesting books in English. Most of the classics—including some Shakespeare, Swift, Dickens, Thackeray, Byron, Scott; Americans like Theodore Dreiser and Mark Twain; and Hardy, Galsworthy, Kipling, H. G. Wells and Shaw.

The food was still very poor, but for the last three weeks I shared a cell my diet was changed. Although I now had milk and fish and a little fruit, there was hardly any sugar and no butter or margarine. The meat issue consisted of an inch cube of pork fat; I never saw real meat at Vladimir.

We took exercise for one hour a day in a yard about 12 by 14 feet. There were eight of these yards patrolled by one guard on a platform above. Prisoners in the hospital block overlooking the yards could shout at those taking exercise, or throw them things. There was a very effective method of throwing messages or packets of tobacco, using a length of wool from an old sock.

Some of the Russians were very daring and cheeky. One remark which I prize was made when the rift with China became known. A fellow put his head through a window and shouted, "Mr. Veen, do not worry. Chinese liberate you!"

In the first few weeks, when I still had cigarettes, I used to give them to the other prisoners I saw going to the showers—the cleaners or shower attendants, the few who were not cleared out of the area when I passed by. And later, when everything was taken away from me, they would give me something. Apart from Makinen, and two other prisoners who were later put in my cell, I was kept in strict isolation. On one occasion when I left my block to go to the administration I had a sack put over my head.

But whenever I had the opportunity, as I passed a cell when going to the toilet or the bathroom, I would shout, "Do you speak English?" I had several calls back—"Yes. I speak English. I speak some English." With these and other contacts, and with the aid of odd snatches of conversation with a guard here, and interpreter there, or a workman, I managed to piece together some information, at least about my fellow political prisoners.

I found I was sharing with Makinen

the cell in which Gary Powers, the American U-2 pilot, had been kept. On our right were two elderly Russians, the secretaries of Beria, Stalin's secret police chief. They had been in Vladimir for more than eight years, and they looked as if they had. One of them, I was told, had been a lieutenant-general and an ambassador. On the other side were some elderly women, very badly dressed; in the winter it was pathetic to see them wrapped up in newspapers and rags. Like most women in Vladimir, they had been convicted of "religious crimes" like trying to run a Sunday school.

Later, when I was in a cell in which there was a crack in the window glass, through which I could see, I watched another group of women pass by on their way to the showers, chanting prayers and hymns and making the sign of the cross. Towards the end of my imprisonment when, for the first and only time, I got Western reading matter, I acquired a copy of the *Illustrated London News*, and I cut out the centre spread, which contained a colour picture of the dedication of Coventry Cathedral. This I rolled up and slung over the exercise yard wall where the women were taking exercise and singing hymns. I believe they were most grateful, for every time they passed me they waved and made some greeting.

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Farther down the corridor were two young Germans and two Dutch boys. These latter I saw only once, when they waved from a window; the Germans I saw more often, and when I heard their door open I used to count the number of steps they would take to pass my cell door on the way to the showers and shout "Guten Abend!" to them, and they would reply. There were also, I was told, some Japanese in Vladimir—kept in complete isolation—as well as Hungarians, Poles and East Germans.

Often we heard shouts and screams. These, I was told, were drug addicts. The prisoners would do anything to get morphia injections. But the screams may have been the result of flogging or some other punishment. A favourite form of punishment was 15 days in a cell without daylight—just electric light, no heating, no overcoat, no bed, just a wooden shelf let down for a few hours each night. There also seemed to be a system of starvation.

Letter Home

Other prisoners I saw were looking pretty pale. But because they had work to do I was told they had extra bread and could buy from the shop, as they were paid for working. I did not see what they got to eat, because my food was pushed through the cell door, and I did not know whether it came from the general supply or not. Whatever I had was extremely small; it was terrible. They seemed to be short of everything there, even such things as soap or disinfectant. The showers would run out of water, the electric lights would fail, or the drains would not work.

About four weeks after I arrived at Vladimir I had my first interview with Colonel Chevshenko of the K.G.B., the Soviet Secret Police. He said that I was now under his control, that I was going to be taught a lesson for my misdeeds against the Soviet Union and my behaviour in court, that he would be seeing me again later, but that meanwhile I could write a letter home.

My first letter was not very compli-

mentary about the prison, and Chevshenko was livid. I had told Sheila to use her own imagination about the trial, and that I was sure our people fully understood the situation and that they knew what a Russian trial was. He got very angry, and said that unless the contents were altered very considerably I would not be allowed to write home.

Then one day they came for Makinen, packed all his belongings, and took him away to camp. Up to this time we were both allowed to wear our civilian clothes; I was allowed to use my electric shaver. Now I was left alone, and a few days later they started on me.

Two soldiers came into the cell, and took away everything that was personal property—the books, one packet of cigarettes that was left, the electric shaver, the pencil, the writing paper.

Half an hour later, the deputy warden, Major Nikolayov, came in. He was vicious. The warden, Major Melnikov, was all right—elderly, a little abrupt, but conscientious. Nikolayov was different. He was always smiling and grinning: he loved his dirty work. He now came in with two guards, and they took me down to the showers, where I was stripped of all my clothes and made to put on the prison outfit once again—long thin cotton drawers, a thin jacket and trousers, canvas boots, no socks.

They marched me back to the cells, but not back to my own. They must have chosen the filthiest cell they could find—though I did not mind, because it gave me something to do cleaning it. They cut me down to the minimum diet—supper, a plate of wet potatoes, breakfast just gruel.

This went on for about a week or 10 days. I was feeling sick and very hungry. Then one evening, at about 7 p.m., they came into my cell, brought an overcoat—it was autumn by then—told me to put it on, and marched me out.

Eventually I was put into a metal prison van, and after a short, shaky journey we got out. It was Vladimir.

(Continued on next page.)

station. I was put into a compartment—just a hard wooden bench, the windows barred and blacked out. The journey lasted about seven hours, and at the other end I was again taken through a line of armed guards and put in a steel prison van. When the doors were opened, I recognised at once where I was. Back at Lubyanka.

They did not wait long before taking me for interrogation, with the same general and interpreter, but a different colonel. This time the room was plain, with dirty white-washed walls, a few chairs, and a powerful light shining on you as you stood against the wall.

They started to get really nasty. They said that they had realised that I was putting on an act, that now the trial was over they intended to keep me there for eight years, but if it suited them they could always keep me there for longer, that it could be that I would never get out, unless I started to tell the truth now about my real connection with Penkovsky, the people I had met with him, and so on. They hoped that I would come to my senses, and if I did they would make my conditions much better.

I could not care a damn. I had reached the stage where I had taken a great deal, and a bit more did not seem to matter. So I told them to go to hell.

The colonel, a big red-faced brute of a man, struck me across the jaw. It was a terrific blow. I fell down; my denture was broken; and I carry a lump on the jaw to this day. I will have to have this operated on soon.

I refused to get up. The colonel and some other people went out, others came in. First they shouted at me, then they altered their tactics and offered me a cigarette. I refused it. I refused to say or do anything, and after three-quarters of an hour they took me back to my cell.

For a few hours I was left alone. Then they got me up in the night and I went up to the interrogation room again. They went over the same old story again, this time concentrating on the other "socialist" countries I had visited—Poland, Czechoslovakia, Hungary, Rumania. Mostly they questioned me about the people that I had met, emphasising that I was an "intelligence officer." They wanted to know who were the people Penkovsky had introduced me to, who were the other Russians I knew. They mentioned a whole list of names.

Most of these people I did not know anything about, so it was easy to say nothing. Because I could not answer three-quarters of the questions I did not see why I should answer the rest.

But the result was pretty bad for me. I had hardly any sleep for many days. I lost count of Saturdays and Sundays, and at this time they did not even give me any exercise. They did not give me a bath, they did not let me

shave. I must have been like this for three or four weeks.

Then I was taken back to Vladimir: and in Vladimir the same conditions. Solitary confinement for two months, and then back to Moscow for exactly the same routine.

Up to then I had had no letters from my wife—they were sent back to the Embassy—and no food parcels. But the second time I went to Moscow they had one of Sheila's parcels on a table. It was opened, and all the stuff was spread out—magazines, newspapers, tins of corned beef, coffee, sweets, toilet soap, letters from Sheila, photographs. And they said to me, "Why make trouble for yourself? These you can have now. . . ."

So then we were back to the old routine. I was pushed and knocked about. Of course it was very awkward for me. It was difficult for me to stand for several hours because of my leg, and I was very weak because of my bad diet, and the more difficult I tried to make it for them the harder it became for me too.

They were still the same questions: when was I recruited, what training did I have, which spy school did I go to, who did I work with? This time it went on for about a week.

"It was terrible"

Chevshenko came, and told me that I had proved beyond all doubt that I was a spy, that I had important connections and that I was a really big noise; that I was responsible for terrible crimes against the Soviet people and that they were going to have the truth out of me somehow—never mind if it cost me my life; that I would never see my wife again.

I was starved. For three or four days they just did not give me any food at all. They did not let me wash. They did not allow me to go to the toilet, or empty my bowels. I had no exercise. It was terrible.

And then I collapsed in my cell. When I awoke I had an oxygen mask over my face. They gave me injections for about a week. I was allowed to stay in bed. The food improved, I was allowed some Bovril and vitamin tablets which my wife had sent me, and they allowed me some books and papers. They even gave me some letters from Sheila for the first time, and pencil and paper to write to her.

This better régime went on for about a week: I was then allowed exercise, the better diet continued, and it was at this time that a young hooligan from Odessa was brought in to share my cell. He was obviously a plant, and had a long-winded story about trying to escape by boat from Odessa. In the end he got so irritating that I called the guard, and said I was getting fed up with this and could they take him away. The warden told

me to write to Chevshenko, which I did.

Chevshenko said he had no intention of moving him. Now I could see that they had no intention of finishing me off, or marking me for life, so I thought I would work on this, catch hold of this fellow from Odessa, and smack him and bundle him off. I reasoned that they would not risk a fight in which I might be marked.

I was so right. Because the moment I started beating the fellow up they got him out. Then I was alone again.

The third time I went to Lubyanka it was for a big questioning with Czechs, Rumanians, Bulgarians, Hungarians, but no Poles, strangely enough. These were the specialists in their own countries, and they kept asking me the same questions about my own movements and contacts.

Also they asked me about Penkovsky. Whom he had seen, what did we do in Moscow, whether he knew the waiters very well, did he use the same car each time to and from the airport, did he speak to anyone at the airport, what friends of his did I meet? To all these questions I replied, "I don't know . . . can't remember . . . I can't speak Russian . . . I didn't see Penkovsky with anybody." I had no intention of being helpful.

The questioning went on for about a week. After this, I was brought before the lieutenant-general in charge and some other people, and this time I was told to sit down. They told me that one way in which I could better my conditions was to sign a paper they had drawn up.

This paper said in effect that I had confessed at my trial, and that I would co-operate to make amends for my crime. That I offered of my own free will to work for the Russians and to give them technical and commercial secrets.

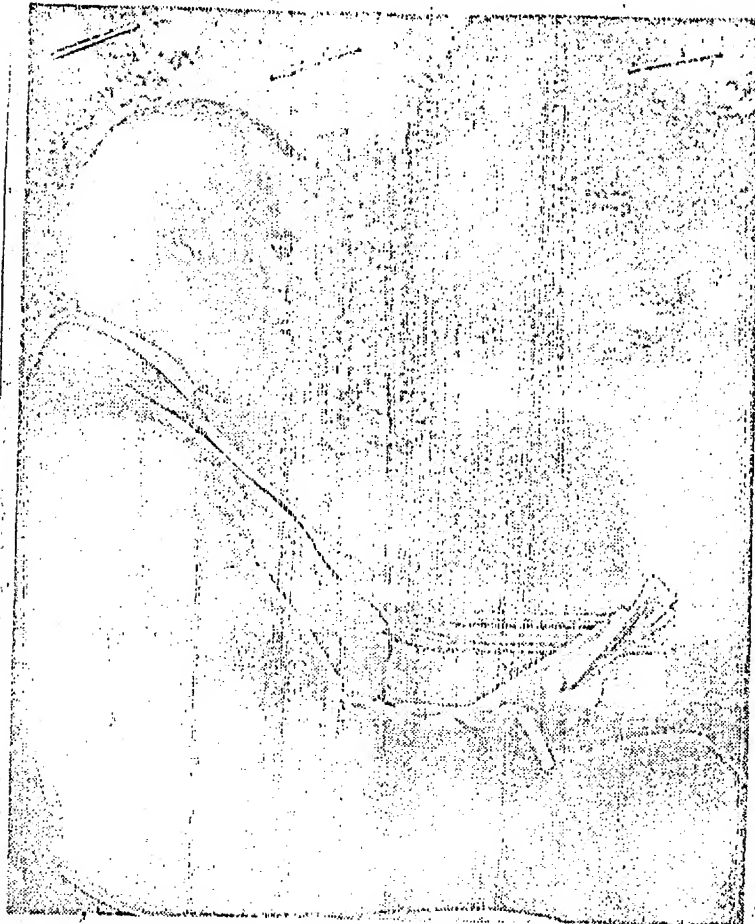
This of course I refused to sign. They then said, "Well your fate is in your own hands. You have had a taste of what Vladimir is like; you will go back and have even worse conditions until you come to your senses." But they could not hide from me the fact that I had very much got under their skin. The last bout of questioning did have one effect on me; it confirmed my suspicion that Penkovsky might still be alive. These questionings, coming from the intelligence officers of the other countries as well, showed that the iceberg of which he was the tip was far broader-based than even Russia. It was unlikely that they would deprive themselves of one of their best witnesses, Penkovsky himself.

NEXT ARTICLE:

Suddenly, freedom.

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Where it all began: Wynn sits again on the seat
near Carlyle's statue on Chelsea Embankment where
a Soviet official suggested in 1960 that he might
"help" the Russians.

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WYNNE'S

STORY PART V

Suddenly to Freedom

"You will have even worse conditions until you come to your senses," the Russians told the author during a ruthless bout of interrogation at Moscow's Lubyanka. He was then sent back to Vladimir prison, 90 miles north-east of Moscow.

TRUE to their promise, back at Vladimir they were pretty rough for about a month. Again I had a very bad diet, and sometimes missed my food altogether for a couple of days. Instead of going out for exercise every day I went only twice a week. They made me miss a bath a day, would not let me shave, nor go to the toilet every day or empty my can—this sort of thing.

It was at this time that a most unusual thing occurred. I was being taken to the showers, and once again saw an opportunity of shouting, as I passed a cell, "Any-one here speak English?" This time there came a reply, "Yes, I do speak some English," in an accent that was not Slav but which might well have been Scandinavian.

At once the guard clapped his hand over my mouth and hustled me into the toilet, where I was left locked in for more than an hour. Then I was taken by two guards and an officer not to my own cell but to one on the floor below, and I never returned to that floor again.

A few weeks later I had the opportunity of making renewed inquiries through my contacts in the wash-room about foreign prisoners in Vladimir. This time I was told that, besides Poles and Hungarians, Germans and Japanese, there was "a Swede who had been there for a very long time, and was under strict guard." And when I was in Sweden on business last month it was suggested that this man might have been one of more than 20 Swedes who were believed to have been taken into Russian captivity.

The next time I went up to Lubyanka I knew something was up because I was first taken to the administrative block, given a suit to put on, allowed to shave, and taken from Vladimir, not on the train, but in a metal police van. When I got to Lubyanka I had better treatment immediately—a few scraps of meat or fish in the soup, a little milk.

The Briton imprisoned by the Soviet as a spy ends his story by telling how his release came out of the blue, even though the Russians were trying to drag information from him "right to the last moment."

By GREVILLE WYNNE

They took me to the court house where the trial had taken place and then they told me that I was going to see my wife. They warned me that if I complained to her about my treatment I would be punished and the meeting would be terminated. But she could see for herself, from my appearance, what things were like. It was nearly nine months since her last visit.

I was not, of course, alone. There was Melinkov, the warden from Vladimir, and Borovik, the lawyer whom I had not seen for nearly a year. We talked of home, of the family, we talked generalities. Then Sheila said, "Grev, I'm not sure, but I believe there have been negotiations. Don't count on it, but there is a possibility that you will be released quite soon."

Of course, I had always had every faith in my own people and my wife,

that they would do everything in their power to secure my release. But I never expected to come back in under five years. I did not then know that Makinen, whom I had seen go off to camp six months before, had been released; nor the two Dutch boys who had been in Vladimir.

Knowing the Russian attitude, I could not believe that they would keep up this terrible treatment and yet be negotiating a swap. But right up to the last moment they were trying to drag out information.

I went back to Vladimir the day after Sheila had gone, and a man called Charles was put in the cell with me. Now he was a reasonable man; he spoke a little English and quite a lot of German, and we were able to talk. He never asked me leading questions: I think he was fairly genuine. He had been manager of a department store and he had been in on a deal in lemons and got 15 years.

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A Change of Clothes

During this period the food improved slightly. I was allowed out to the toilet every day. I had my bath regularly; I also had some Bovril Sheila had left me, as well as books and letters which she had written. They left me alone, and I wondered what lay behind these improvements. Then they came for me one day and sent me back to Lubyanka.

But first I was taken to the bath house and told to sort my luggage out. After the shower I was told to change into civilian clothes. Knowing what winter was like in prison, I wanted to have as many clothes as I could with me. I had a prison uniform, and the guard pointed to a pile of clothes and told me by signs to put my uniform on this pile. Well, I didn't. I put my prison clothes under my civilian clothes, which were being re-packed, and walked out of Vladimir with them. I also kept my mug with me, because I wanted to keep my own mug wherever I was going; I had spent a lot of time polishing and cleaning it. I still have both the uniform and the mug.

I was in Lubyanka for three or four days, and during this time the food was again better, and I was given vitamin tablets to build me up. I was called up to the interrogation room, where they played back to me a number of tapes of remarks I had made, including the one about Kuli-

kov trying to recruit me in London to work for the Russians. But where I said, for example, "I do not wish to work for you," they had cut it to make me say "I do wish to work for you."

Once again they put before me the document saying that I confessed and would work for them. And they threatened that if I did not sign they would play the forged tape over Radio Moscow, and that they would give their own story, at any time they liked, about how I betrayed the British people and betrayed Penkovsky, and how I even tried to work for them and to become a double agent. Once again I absolutely refused to sign, and I have never signed.

But they gave me no indication that I might go home until one day they put me in civilian clothes again. By that time I had been in and out of my prison clothes so often that another change did not mean anything. I thought perhaps I might be going to receive a visit from the Embassy. I had asked at Christmas and Easter to see a clergyman from the Embassy—not that I am terribly religious, but in a prison one feels a spiritual need. But they had refused. I had also asked in vain for a bible.

I was taken in a car out to the airport. I did not know where I was going: maybe to Czechoslovakia for interrogation—I did not know what to think. On the plane nobody said anything. I recognised German sign-writing as we touched down, and I knew that we were in East Germany. Then I thought, "Maybe I'm going home."

I was driven in a closed van to a Red Army barracks, and we arrived there late in the afternoon. There was a man who said he was the Soviet Consul in East Berlin. He spoke English fluently.

There was some money which Sheila had sent to the prison, amounting to about £30. In a fit of propriety, the Russians had ordered him to return the value of this, but not in hard cash. There was some argument, and I said, "To hell with the money; I need some decent food." So I came back with something like 20 tins and jars of caviar. I was not surprised when the tins were opened that the caviar was mildewed and had to be thrown away.

Then the following day I was aroused about three or four o'clock in the morning. I had slept in a room of a requisitioned

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house with guards all round. They gave me one good meal. At dawn I got into a car, and sat between two very big civilians. At what was obviously the border, I thought, "My God, this is too good to be true." After 10 or 15 minutes the Consul put his head in the car and said, "Oh, Wynne, I must tell you. We are now going across here with these men. If you speak or misbehave you will be shot."

We went through the gates and stopped in a sort of no-man's-land area, where another car approached. Then suddenly the car doors were opened and I was brought out escorted by these two men, who held me very tightly indeed. We stood for a few moments, then walked across from the cars. I stood facing Lonsdale and his British escorts — the exchange was made. Lonsdale went with his comrades to the Russian car, and I was so overjoyed I don't remember what happened after that.

I did not know Lonsdale, but I knew of him. He looked terribly well-fed and he

needed a hair-cut. I had lost three stone in weight and my head had been shaved.

I went to the station commander's house on the R.A.F. station near the border, and it was such a delight there because the door was immediately opened, the Commander and his wife greeted me, and I was shown straight upstairs to the bathroom. The water was already run, and there were bath-salts. It was beautifully clean, and I was overwhelmed by it. I had a glorious time in that hot water, I came down to eggs and bacon. I was really back home.

At Northolt airport that afternoon I was surrounded by Press and TV reporters who followed me home and for a few days made life rather difficult. We received many letters, and the Press Council told me that they had received many more, complaining of the way in which the British Press had troubled Sheila and myself during these difficult times, and on my home-coming, and the way in which they insisted even in following my son to school. But in spite of

my criticisms of the British Press, let us keep it as it is and never permit a system such as Soviet Communism, which destroys all freedom of expression.

Besides, I must place these unpleasant aspects of publicity against the many thousands of kind letters we received from wellwishers, most of them quite unknown, from all over the world. My wife was overloaded with letters, telegrams, flowers.

I was glad people wrote to Sheila like that. I have hardly mentioned her in my story, yet in a way she is its real heroine. She has suffered greatly. I more or less knew what I was going into—not quite all, but I knew I must expect some difficulty if things went wrong. But to Sheila all this came as a surprise—I was not able to warn her. I could not tell her anything for obvious reasons. My real connections with Penkovsky, came to her as a shock.

She took it exceptionally well. And the way she managed to look after my son Andrew, and the house; the way she's managed to be so cheerful, especially when visiting me in prison in Moscow, was magnificent. She never once broke down; she's not built that way, she can keep her dignity and behave herself with good Scots fortitude when trouble comes.

Wider Implications

I have given an unvarnished account of events as they happened to me. But it is essentially a personal account; I have barely touched on the wider implications of what Penkovsky and his associates represented in Russian life. Even if Penkovsky is dead—which I do not believe—it must be remembered that the cause for which he worked is still very much alive.

Nonetheless, I have always believed that my story, as far as it goes, should be told. I knew the risk I was running. Somehow the Communists in recent years have never been confronted with a prisoner of theirs willing and able to expose them and their methods. And I have never had any doubts that they would seek every means to denigrate my story and to revenge themselves upon me for writing it.

There are 200 million people in the Soviet Union, and among these there is an important core of people like Penkovsky who have had an opportunity of seeing other countries and realising they have been fooled by Communism all their lives.

When they go back to their own country, they have an opportunity to talk to their friends about their experiences, and the news gets around. Some of them land in prison for speaking. Others, like Penkovsky, try to do something about it.

My belief is that Penkovsky's sentence was meant as a warning to other people. They will have to lie low for a while. His case may also have the effect of stirring up certain members of the Soviet Government who realise that some of their senior and trusted officials think it necessary to have a more liberal form of socialism, as Penkovsky put it. There may already have been moves in that direction.

That is what we must hope for, that is what all this has been about. Then Penkovsky's work would be proved worthwhile to his own people.

THE END.

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Homecoming: crowds at the gate and then thousands
of letters from wellwishers.

UNIVERSITY OF SOUTHERN CALIFORNIA TAX INSTITUTE

"The Charitable Enigma: Commercialism"

MITCHELL ROGOVIN: Assistant to the Commissioner,
Internal Revenue Service

Introduction

Some 15 years ago a free lance writer observed that "in the name of Sweet Charity and her equally gentle sister, Higher Education, a tremendous lot of money, which would otherwise go to the United States Treasury, is sticking to the fingers of lawyers, promoters, practical men of business, foundations, and universities. With increasing frequency of late, writers and men of public affairs are again cojoining general praise of philanthropy with a special form of damnation for those in the charitable field who practice the gospel of wealth.¹²

In the long view of the history of philanthropy, such observations are neither new, nor necessarily intemperate. Down through the ages, the sovereign, whether king, pope, or revolutionary government, has seen fit to institute restrictive measures to limit the economic power of philanthropy. The privilege accorded such charitable reservoirs to existence in perpetuity never offended half as much as

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the multiplier effect compound interest had upon the fund. The abrasion between charity and the public it serves has always centered on the untaxed status of the increment.

Since poor men do not normally endow foundations, it would not be out of order to consider for the moment the breed of men whose subsequent actions are to be examined closely.

Today, the businessman has replaced the "captain of industry" as the founder of charitable enterprise. But, the economic drive common to both, lives on in their endowed charities. Neither the bewiskered captain nor his gray flannelled counterpart stop at the waters edge; for having once endowed a charity they are compelled to guide its subsequent efforts and future.

The head-on conflict with the tax law takes place when men of business acumen set about to guide their charity to "make more" in order that it might "give more." While

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it may gild our mid-twentieth century lily to subscribe to the "material prosperity" espoused by a turn of the century bishop who saw it "make the national character sweeter, more joyous, more unselfish,"/3 this same prosperity has been experienced in large doses by modern charity. Will our success spoil exempt status?

More fundamentally, the question to be put is "the extent to which a tax exempt organization may engage in income producing activities and still retain its tax exempt status."/4

It is this most basic question of tax exemption that remains unanswered after 50 years of administrative and judicial experience with virtually the same statute. The question of the extent of commercial activity not only continues to plague the courts, taxpayers, and the Treasury, but will undoubtedly give Congress difficulty in any reconsideration in years to come.

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Although the very existence of an exemption mechanism in the Code would appear to make reasonable the assumption that it represents a legislative recognition of the income earning capacity of exempt organizations, such clarity of legislative purpose is not to be found. Sufficient haze exists over the spawning of the exemption provision as to give color to each of the competing arguments.

State Exemption Provisions

Prior to the turn of the 20th Century, recognition in the field of taxation of charity's preferred position was almost exclusively in the form of real and personal property exemptions granted by the States.¹⁵ Then, as now, the relationship between the property subject to tax and the activity deemed worthy of State support was direct. Frequently, these statutes were drawn in terms of "exclusive use" and exemption was withdrawn where the property was "let for rent or hire or for use for business purpose,

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notwithstanding the income from such property shall be used exclusively for educational, religious or charitable purposes."/6

This exclusivity of use concept gave the State legislatures a riddle shot type of tax support. Exemption was to be granted only where the property, which was subject to tax, was exclusively put to the enumerated worthy purpose. Not only did this provide for an economy of subsidy, but it also brought about a directness of legislative language to be admired. For example, a Wisconsin statute exempted the real property of the "home of the Friendless in the city of Milwaukee not exceeding one lot" while actually used for such home.¹⁷ A simple and uncomplicated exemption provision.

The exclusivity of use concept was also readily manageable by the State courts. The charitable character of the owner of the property, for example, was immaterial where

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exemption was tied to use^{/8} and the fact property is principally^{/9} or largely^{/10} used for exempt purposes was not generally sufficient. This "exclusivity of charitable use" to which property must be dedicated is probably no more colorfully portrayed than in St. Louis Lodge v. Kcala^{/11} where, in holding an Elks Club was said:

"Charity is not a promiscuous mixer. Here she modestly stands outside or goes her way and waits; waits until the plaintiff (Elks Lodge) has finished using the spacious and comfortable rooms for the pleasure of its members; waits until the curtain has fallen upon the last scene of the vaudeville performance on the stage; until dancers have tired and gone home; until the billiard rooms have been deserted to the markers; until the plaintiff has paid the cost of its own entertainment, and goes out and finds her, and hands her whatever it may have left in its pocket."

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Thus, when drafting a state property exemption statute, the question whether or not to provide for a charitable organization's profitable use of its property became basic to the legislature. While such use could be made inimical to exemption, a conscious choice had to be made.

When, however, Congress initially considered the Corporate Excise Act of 1901,¹² no mention was made as to the status of not for profit corporation. Even though the thrust of the excise, like that of the Revenue Act of 1894, extended only to corporations organized for profit, exclusionary language was proposed by amendment. As a consequence, while all not for profit corporations might well have fallen outside the excise under a reasonable reading of the statute,¹³ an amendment was adopted which specifically enumerated certain nonprofit purposes considered worthy of exemption.

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Critical to the thinking of the member offering the amendment was his concern as to how the phrase "organized for profit" would be construed. It is at this point that the only legislative history relevant to the basic issue is to be found. This need for amendatory legislation in order to protect the status of charity from taxation was based on what Senator Bacon saw as a difference between organizations "organized for profit and those organized for individual profit." The latter, being the touchstone for taxation, the former merely descriptive of a charitable activity. During the debate, certain business activities of nonprofit organizations were acknowledged, discussed and to one degree or another blessed by the subsequent enactment of the amendment.

While too extensive a dwelling on such debate might be faulted as "fumbling about in the ashcans of the legislative process

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for the shoddiest of unacted expressions of intention,"/15 a fair summary of what took place includes:

1. Congress was aware of business activities of at least certain charitable organizations.
2. These activities were extensive and substantial in size and scope.
3. Their profit was dedicated to a charitable purpose with no profit inuring to individuals.

Revenue Act of 1913

Like its unsuccessful predecessor, the Revenue Act of 1894, the exemption provisions of the Revenue Act of 1913/16 were enacted without debate. The wide acceptance of charity in this country never caused division, especially when exemption from taxation was proposed. Attention, as usual, was focused on the doughnut and not the hole. As a consequence, it is understandable that the

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68th Congress would adopt, virtually intact, the mechanism developed to exempt certain nonprofit organizations from the 1909 excise.

But, there is a significant difference between the two types of taxes and its apparently went unnoticed, at least as to the effect the different taxes would have in drafting appropriate legislation. For the 1909 Act was a tax on the type of activity conducting the profit making activity. The very nature of the excise--a tax on corporations engaged in business for profit--pointed to the fundamental distinction between income earned by a charity and that of a profit motivated stock corporation. The 1913 Act, on the other hand, had an infinitely broader scope--taxing income "from whatever source derived." Clearly, absent an exemption provisions, the income of a charitable organizations would be subject to tax, nonprofit purpose notwithstanding.^{/17}

The structure of the modern income tax

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has always provided for exclusion from taxation of certain types of income.¹¹⁸ But from the outset, the earliest provisions of section 501 took a much broader approach. Rather than exclude from tax any particular type of income, it instead followed the entity exclusion concept of the 1909 Act and exempted from taxation the entire income which would otherwise have met the definition of taxable income.

Thus, the exemption provisions in the 1913 Act carried no qualification or limitation as to the type of income freed from taxation. For the purpose of determining an organization's exempt status, labeling certain income as "business" adds nothing to the problem. If a limitation exists as to the extent of business or commercial activity that can properly be engaged in by a charitable organization,¹¹⁹ it must therefore be a definitional one relating to the purpose of the organization, rather

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than an inherent restriction as to type of income.¹²⁰

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than an inherent restriction as to type of income./20

Trinidad v. Sagrada/21

Any consideration of commercial activities of exempt organizations must begin with an analysis of the oft-cited Sagrada case. The Supreme Court, in construing the nine year old exempt provisions of the 1913 Act, had before it for the first time the key question as to whether the production of income prevented qualification where, as now,/22 an organization had to be "organized and operated exclusively" for one of the enumerated exempt purposes.

Factually, Sagrada was far from an "abuse" case that cried out for revocation of status. Rather, the taxpayer corporation was the legal representative of a religious order, the members of which took the vow of poverty. It was conceded by the Government that all of its income was applied to exempt purposes. The bulk of the income in question consisted

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of dividends, interest and rents, with less than 3 percent of the total income derived from the sale of wine, chocolate and other articles sold to its missions, parsonages and schools.

The Government's case, argued by an army judge advocate, appears to have failed to take note of the basic nature of the income tax exemption involved. In what may well have been an act of sheer military bravado, he argued in brief:

"We think it ought to be conceded that if it be true that the entire profits derived by the respondent from the various sources stated in Exhibit No. 1 were devoted to the purpose of the Order, that fact would no more change the nature of its business than if such profits had been distributed among the members for investment in any private enterprise. The renting and leasing of the houses and large estates, the buying and selling of stocks of corporations and associations the buying and selling of

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wines, etc., would still be commercial transactions pure and simple. It is no answer to this proposition to say that if the respondent is not permitted to invest its capital and profits in income producing enterprises, it would soon have to cease its activities for lack of funds, for all agree the tax is levied upon the net income only and not upon the gross income or market value of the properties." 123 pp 14-15

The judge advocate's argument painted the government into an impossible corner. Without allowing for the existence of reasonable distinctions between various income producing activities, the Government's argument lumped them together and asked the Court to draw a line between two competing tests:

1. Exemption to be determined by "the dominant purpose in the use of the property or in the performance of the transactions;" or,
2. Exemption to be determined by "the expenditure of the income or profits

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for the purposes for which the
particular institution was organized.

pg 6

The former test, urged by Government,
reflected that generally followed by State
courts²⁵ where the real property tax exemption
was tied to use of the land. In particular,
it followed the Illinois Supreme Court decision
in Congregational Sunday School and Publishing
Society v. Board of Review,²⁶

It may be that petitioner recognized
the impact of the position urged, for a
meager concession was made in brief:

"Where property acquired by an association
or a corporation is only such as is reasonably
necessary for religious, charitable, scientific
or educational purposes, it is desirable
that it be rendered productive, so far as
this does not interfere with its [exempt] X
work. Again, where property is acquired
primarily for one or more of these specified
purposes, and it is put only incidentally to
a business use, it may well be that such

religious, charitable, scientific,
or educational

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use does not call for a ruling that the association or corporation is not operated exclusively for such purpose or purposes "122

py 7

Mr. Justice Van Devanter's examination of the exemption provision disposed, almost summarily, of the petitioners argument. "First," he said "it recognizes that a corporation may be organized and operated exclusively for religious, charitable, scientific or educational purposes, and yet have a net income. Next, it says nothing about the source of income, but makes the destination the ultimate test of exemption." 123 Had the Court stopped at this point and firmed up an "ultimate destination" test, irrespective of the type of commercial activity, a manageable test would have been coined. But the Court went on to view the types of income earned, an area petitioner had stayed clear of in brief. In referring to income from rents, dividends and interest, the Court said that the organization, "in using the properties to

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produce the income...is adhering to and advancing those purposes, and not stepping aside from them or engaging in a business pursuit."/29 This was to become troublesome. Even so, that language could be made to fit the broad reach of what soon came to be known as the destination test.

The simplicity of the ultimate destination test was undermined to a much larger degree when the Court got around to talking about the sales of wine and chocolate. In something more than a mere recounting of the evidence, the Court said "it is not claimed that there is any selling to the public or in competition with others." The Court went on to stress that sales were made within respondent's own organization; profit was negligible; and that financial gain was not the end to which the organization was directed.

While subsequently most lower courts found the Court's opinion in Sagrada sufficiently clear,^{/30} the Court's opinion in Sagrada still left room for others to make colorable

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arguments drawing distinctions between types of income.^{/31} More important, the Government was far from convinced that Sagrada was intended by the Court to be all encompassing.^{/32}

Commercialism: Purpose or Activity

The practical effect of all that has gone before supports the proposition that the conduct of a trade or business by an organization claiming exemption is bound to be suspect. While commercial activity and charitable purpose are not mutually exclusive, the inherent difficulties in separating the questioned activity from the desired purpose has, at a minimum, caused the arching of the tax collector's eyebrow.

Under existing law, when "commercialism" takes the form of something more than merely drawing down the type of income historically "recognized as proper for educational and charitable organizations,"^{/33} the underlying status of the organization is potentially suspect. The first question raised is whether the business activity represents the organization's

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purpose, raison d'etat, or an activity in furtherance of an exempt purpose.

Section 501(c)(3) makes "purpose" the touchstone for exemption. Even though the regulations under this section, since 1950, require an organization to be both organized and operated for an exempt purpose,^{/34} this test separates the power to engage in certain activities from the actual activity. Both limitations look to activities as reflective of the subjective requisite of charitable purpose. While the organizational test raises certain problems for the draftsman as to limitations on business activity,^{/35} it is the organization's operations which will belie or reflect the requisite purpose.

Viewing "activities" as an accurate mirror of "purpose" has, however, more than a mere potential for distortion. The exclusive commitment to charitable purpose referred to in the statute has been interpreted by both the Service and the courts to mean something less than "solely."^{/36} This was, in measure, reinforced by Congressional adoption in 1950

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of a mechanism to tax the regularly carried on unrelated trade or business income of certain exempt organizations.^{/37}

While drawing a distinction between activities and purpose would appear to make a viable point of departure in analyzing the cases, the danger of becoming confused in the semantics of language is great. The regulations provide for an "organizational test"^{/38} where in no more than an "insubstantial" amount of commercial activity is deemed proper for a section 501(c)(3) organization. The "operational test"^{/39} limitation on commercialism precludes exemption if "more than an insubstantial part" of the activities are not in furtherance of exemption. The "operational test," stated positively, also requires the organization to be engaged "primarily" in activities in furtherance of exempt purposes. Finally, to the extent an organization carries on an unrelated trade or business,^{/40} this cannot be its "primary purpose."

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Thus, where business is considered a purpose of the organization, it must be "insubstantial" in relationship to the exempt primary purpose. Where the business is an activity in furtherance of an exempt purpose, the potential of its affecting exemption is slight. Where the business activity is not related to the purpose of exemption, but merely to raise funds, running such an unrelated trade or business cannot be the organization's primary purpose.

Dichotomy of Commercialism

If a dichotomy of commercial activity is to be helpful, it is quite important to begin with a basic tenet: Business is business.

It markedly detracts from any analysis of the problem to dub a business activity something else in attempting to reach the ultimate question; whether the organization is exempt. This is not to say that the ultimate determination suffers for the characterization. Rather, it puts recognizable activities under a common form of terminology. In other words, a

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business activity, such as running a school or a hospital may be an exempt activity; nonetheless, it is the operation of a business activity. Like the term "trade or business" found in various sections of the Code,^{/42} "business activities" or "commercialism" similarly defy an all-inclusive definition. While some theories advanced have been questioned as being "as thin as the homeopathic soup that was made by boiling the shadow of a pigeon that had been starved to death,"^{/43} the configurations of the concepts are identifiable.

First Category

The existence of the first category grows out of the way the Sagrada case is to be read. When the dictum dealing with the competitive aspects of business is read out of the holding, Roche's Beach^{/44} plumbs the depths of commercialism. It is the farthest extension possible of the Sagrada case.

In Roche's Beach, the Second Circuit sanctioned the operation of a bathing beach business with some 3,000 bath houses serving as many as 6,000

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bathers daily. The business catered to the bathers' needs both inside (soda and candy concessions) and out (rental of suits and towels) from top (sale of caps) to bottom (sale of bathing shoes.) Such activities bore something less than a passing relationship to charity. In fact, the only nexus with charity was the ultimate destination of the net profit. This was, however, sufficient for the Second Circuit.

The Roche's Beach type case, or "Feeder" as it was called, is exemplified by the corporation whose function is the carrying on of commercial activities for profit and attempts to claim exemption because the entire net proceeds are paid over to an exempt organization.¹⁴⁶ In subsequent analysis this function has been characterized as the "primary purpose."

The exempt status of such organizations failed, however, to survive Congressional examination in 1950 and section 502 now precludes exemption. Thus, whether Sagrada was misread by the Second Circuit or not,

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the question became academic. The legislative history of section 502 makes clear the intent of Congress to overrule Roche's Beach.^{/47}

The prohibition of section 502 does not completely clear the air, however. The gravamen of the offense in section 502 is not merely the carrying on a trade or business, but rather that such an organization's sole claim to qualification is that all of its income is turned over to charity.^{/48}

Enactment of Section 502 was not necessary to preclude exemption where an organization's primary purpose was the conduct of a trade or business. It was the ultimate destination, i.e., paying over to a charity that, prior to 1950, caused those circuits following Roche's Beach to allow exemption.^{/49}

The phrase in section 502, "all of its profits are payable," can be read in the narrow sense that the organization is legally obligated to pay over the profit to a specific charity; in effect the earner of the income is a wholly-owned business subsidiary of the charity. Under such

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a reading, if the organizational instrument does not provide for obligatory payments, but rather provides for discretion in payment of a charitable program, section 502 would not apply and the only question remaining would be whether sections 511-514 are applicable.

This is not, however, the only interpretation of section 502. Read in a broader sense the word "payable" could be interpreted as meaning "a purpose to pay." The discretionary payment as well as the obligatory payment would be within the purview of section 502. Such an interpretation brings not only the Roche's Beach type case under section 502, but also encompasses situations where independent charitable programs exist.¹⁵⁰

Thus, the specter of section 502 looms appreciably larger than a first reading of this section might appear.

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Second Category

The existence of an unrelated trade or business and a substantial charitable program are ingredients of the second category. Assuming the inapplicability of section 502, the issue becomes whether the organization's "primary purpose" is carrying on commercial activity.^{/51}

Since the determination of "purpose" is not generally subject to direct proof, the second category requires the balancing of the business versus charitable^{/52} activities in order to determine the predominant or "primary purpose" of the organization. While the regulations^{/53} recognize that the "size and extent" of both these activities are to be contrasted, no illustration is given in support of the relevant factors to be taken into consideration.

By the stroke of a pen, an organization's net profit from the operation of a business can be dispensed. That being the case, what factors are taken into consideration in

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measuring the "size and extent" of the income producing activity against the disbursing activity? Revenue Ruling 64-182/54 raises the problem in the context of "income principally from rental of space in a large commercial office building" which a foundation owns and operates.

The significance of the revenue ruling is that in applying the "primary purpose" test of the regulations, it is not simply a physical measurement of the "size and extent" of the business activity versus the charitable activity, but rather a test geared to a meaningful common denominator; the financial support to charity. The two rules to be gleaned from the published position are: (1) that the amount of expenditures of an organization for charitable purposes is to be taken into consideration in equating business activities with charitable activities, and (2) that if, when such factor is taken into consideration, an organization is shown to be carrying on a real and substantial charitable program reasonably commensurate in

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financial scope with its financial resources and its income from its business activities and other sources, it cannot be said that the organization's "primary purpose" is not charitable./55

Third Category

The third category of commercialism is best identified by the reluctance of most all concerned to characterize the activities in question as the conduct of a trade or business. The factual pattern develops around an "operating" charity and, the activity, businesslike though it is, is generally referred to as being "closely associated with and incidental to"/56 --in other words, somehow related to the exempt functions of the organization. The courts rarely refer to these activities as business, but if they do, they point to a lack of their competitive nature./57 Buried in most of these cases are facts indicating a meager profit, indicative of the lack of a profit purpose.

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Although the factual situations in this category are quite diverse, the publication cases are a good example. Here, a nonprofit organization may edit, publish or sell books, pamphlets or other written material. Where this is the sole activity, the courts have found publication to be an exempt activity in pursuit of an educational purpose. But it would be well to observe that in such cases almost invariably do the courts find the same lack of profit purpose referred to above.^{/58} When the activity is but one of a number of activities of the organization, usually the courts have had no difficulty in finding it related, incidental or in furtherance of the exempt purpose.^{/59}

The Scripture Press Foundation/⁶⁰ case is an interesting exception. Here the Court of Claims found publication and sale of nondenominational Sunday school materials not in furtherance of a religious purpose. Despite its protestations to the contrary, the court appears to have been swayed by the profitability

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of the publishing activity and found adversely because of the "enormity of the contrast" between accumulated income from sales and the amount devoted to an educational program. Such protestation might not have been necessary had the court pointed to the large retained surplus as reflective of a profit or commercial purpose--or conversely the absence of a section 501(c)(3) purpose. The court fragmented the activities of the organization and was not impressed with the argument that one of the organization's purposes was to improve the quality of existing teaching materials for Bible instruction in Sunday schools. The thinking of the court is best capsulized in a footnote⁶¹ pointing out "that there are many commercial concerns which sell Bibles, scrolls, and other religious and semi-religious literature which have not been granted exemption as to that part of their business."⁶²

The separating by the Court of Claims of the publishing "business" in Scripture Press from its "religious purpose" appears,

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in large measure, to have been caused by the large profit involved.⁶³ It would be interesting to speculate if the greater portion of the profit had been devoted to its religious purpose whether the court would have found the publishing activities an unrelated trade or business subject to the provisions of sections 511-513.

Judge Dawson, in A. A. Allen Revivals, Inc.,⁶⁴ put the test for the third category of commercialism another way in stating the question as "not whether the petitioner made or lost money, but whether the purpose of those earnings and the goals to which they were devoted are within the purview of favored tax treatment." (Emphasis added.)

The problem of the extent of business activity an exempt organization can engage in, when viewed in the context of this third category of "related commercialism" presents no real problem. This is simply because the relatedness of the business itself wears the mantle of exemption. It is under these

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circumstances that the traditional sow's ear of commercial activity occasionally emerges as the silk purse of charity.

Conclusion

The history of philanthropy reflects the largess of the sovereign in many ways. Exempting the income of a charitable organization from taxation is but one. Today, the spotlight that shines on the commercial activities of foundations and charitable trusts cannot be denied.

Since "purpose" is the elusive mechanical rabbit, criticism of the administrator's inability to come up with direct proof of the subjective must be tempered. The lines, statutory and otherwise that have been drawn, often pale under logic's scrutiny. To the extent they are judged too restrictive by some or too liberal by others, the remedy lies with Congress.

FOOTNOTES

- /1 Mezerik, "The Foundation Racket," New Republic, January 30, 1950. Some 50 years ago the final report of the Walsh Commission, after extensive hearings on foundation activities, charged that the concentration of wealth by the large foundations of that time (Rockefeller and Carnegie) allowed for the capture of industry to control university life. The majority would have enacted strict Federal supervisory control over large foundations. No action was ever taken, however, on these recommendations. S.Doc. No. 415, Final Report and Testimony submitted to Congress by the Commission Industrial Relations created by the Act of August 23, 1912, 64th Cong., 1st Sess. (1916)

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/2 Hearings on Revenue Revision, 1942, Committee on Ways and Means, 77th Cong., 2d Sess. (1942), Vol. 1, p. 89; Sen. Tobey's Textbook: Hearings before a Subcommittee of the Committee on Interstate and Foreign Commerce, 80th Cong. 2nd Sess. (1948); Revenue Act of 1950, H.Rep. 2319, 81st Cong., 2nd Sess. (1950), 2375, 81st Cong. 2nd Sess. (1950-2 Com. No. 380, 483); Cong. Patman's reports, "Trusts, Exempt Foundations and Charitable Trusts: Their Impact on Our Economy," Chairman's Report to the Select Committee on Small Business, H. Sen., 87th Cong., (Dec. 31, 1962); Second Installment, 88th Cong. 2nd Sess. (Oct. 16, 1963); Third Installment, 88th Cong. 2nd Sess. (March 20, 1964). See also, Krasnowiecki and Brodsky, Comment on the Patman Report, 112 U.Pa.L.Rev. 190 (1963).

/3 Lawrence, The Relation of Wealth to Morals, 1 World's Work 286 (Jan. 1901)

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/4 Sugarman and Pomeroy, Business Income of
Exempt Organizations, 46 Va.L.Rev. 424 (1960)

/5 The first Federal income tax exemption appeared
in the short lived Revenue Act of 1894, Act
of Aug. 15, 1894, 28 Stat. 553, C.322.

Although taxing "all corporations organized
for profit" status of the nonprofit charitable
organization was not left in doubt, for:

"nothing herein contained shall apply to...
corporations, companies, or associations
organized and conducted solely for charitable,
religious or educational purposes...nor to
the stocks, shares, funds, or securities
held by any fiduciary or trustee for
charitable, religious, or educational
purposes..."

Charitable corporations, were considered clearly
outside the thrust of the Civil War Income
Tax Acts, effective from 1861 to 1872. They
simply were not within the enumerated classes
of business corporations subject to the tax.

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E.g., 12 Stat. 292, C.45 (1861). The first Federal tax on legacies provided no exemption for bequests for charity. 30 Stat. 448, C.448 (1898). This was not only remedied, but eventually done retroactively. 31 Stat. 993, C.288 (1908), 32 Stat. 406, C.1160 (1902). In the excises, the Act of June 30, 1864 provided an exemption from the tax on gross receipts of lotteries, provided the proceeds were for charitable or benevolent uses. 12 Stat. 223, C.173, Section 11.

Probably the earliest example is found in the Massachusetts Province Laws, (1706-67)

C.6, Section 2:

"...(except the governour and lieutenant-governour and their familys, the president, fellows and students of Harvard Colledge, settled ministers, grammar-school masters, and such who through age, infirmity or extream poverty, in the judgement of the assessors are rendred incapable to contribute towards publick charges), who are hereby

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exempted, as well from being taxes for their polls, as for their estates being in their own hands, and under their actual management and improvement; and all estate, both real and personal, ..."

/6 Ala. Civ. Code (1923) Section 3022. See Battelle Memorial Institute v. Dunn, 73 W.R. 38, 148 Ohio St. 53; Burns v. Glander, 64 N.E. 2d 678, 146 Ohio St. 198.

/7 Wis. Stat. 70.11(15) (1927). Perhaps only surpassed in brevity by Vermont's exemption of the Knights of Columbus property "located at 29 Grove Street" in Rutland, Vt. Pub. Act. No. 289 (1919).

/8 In re Park College, 39 P.2d 105, 170 Okla. 132; Welfare Federation of Cleveland v. Glander, 64 N.E. 2d 813, 146 Ohio St. 146; State v.

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Alabama Educational Foundation, 204
So. 527, 231 Ala. 11. Y.W.C.A. of
Philadelphia, Pa. v. Monmouth County Bd.
of Taxation, 105 A.726, 92 N.J. 100 310.

/9 Trustees of Young Men's and Young Women's
Hebrew Ass'n of Newark v. State Bd. of
Tax Appeals, 197 A. 372, 119 N.J. Law 101,
aff'd, A.2d 367, 121 N.J. Law 65, Ct. App. Div.
Club v. Lindheimer, 17 N.E. 2d 32, 304 N.E. 2d

/10 Clements v. Ljungdahl, 167 F.2d 603, 18-100,
274.

/11 262 Mo. 444, 171 S.W. 329 (1914)

/12 Payne-Aldrich Tariff Act of 1909, 36 Stat.
11, C.6, Sec. 38.

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/13 See debate at 44 Cong. Rec. 4148-9 (1909).

/14 Sen. Bacon's response to Sen. Flint, 44 Cong.
Rec. 4151 (1909)

/15 Curtis, A Matter Theory of Legal Inference, 13
4 Record of N.Y.C.B.A. 321, 323 (1949).

/16 Para G(a) and (n), Section II, Act of Oct. 3,
1913, 38 Stat. 172, 180.

/17 See Allgemeiner Arbeiter Verein, 25 T.C. 371
(1955), aff'd per curiam (3rd Cir. 1956)
237 F.2d 604

/18 Sections 101-121 currently specify items
excluded from gross income.

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/19 "Charitable" or "exempt organization" is used herein to refer to an organization described in section 501(c)(3) of the Code.

/20 In 1950 Congress made a dramatic departure from the exemption by entity theory. The provisions of the unrelated business income tax, in effect selected out certain types of income for taxation. No quantitative limitation was provided, however. Revenue Act of 1950, P.L. 814, Ch. 994, 64 Stat. 939. See citations at footnote 34, infra.

/21 Trinidad v. Sagrada Orden De Predicadores
De La Provincia Del Santisimo Rosario De
Filipinas, 63 U.S. 578 (1924).

/22 "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable,

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scientific, testing for public safety, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office." Section 501(c)(3).

/23 Brief for Petitioner, pp. 14-15, supra.

/24 Brief for Petitioner, p. 6, supra.

/25 Cases cited in notes 8 and 9 supra.

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/26 290 Ill. 108, 125 N.E. 7.

/27 Brief for Petitioner, p. 7 supra.

/28 263 U.S. 578, 581.

/29 263 U.S. 578, 582.

/30 The majority (5 circuits and the Court of Districts) was able to find a charitable purpose served when profit from unrelated commercial activities was exclusively devoted to charity. Roche's Beach, Inc. v. Comm'r 96 F.2d 776 (2d Cir. 1938); C.F. Mueller Co. v. Comm'r 190 F.2d 120 (3d Cir. 1951); Willingham v. New Oil Mill, 181 F.2d 9 (5th Cir. 1950), cert. den., 340 U.S. 852 (1950); Comm'r v. Orton, 173 F.2d 483 (6th Cir. 1949); Arthur Jordan Foundation v. Comm'r, 210 F.2d 885 (7th Cir. 1954); and

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SICO Foundation v. U.S., 102 F.Supp. 197
(Ct. Cls. 1952).

/31 The minority, (2 circuits and sometimes the Tax Court,) viewing the conduct of a business as reflecting a purpose rather than an activity, read "exclusively" out of the statute and substituted something short of 100%. In effect, they said when your business purpose becomes too substantial, exempt status is in jeopardy--looking more at origin of income than destination C.F. Mueller Co., 14 T.C. 922 (1950), rev'd on appeal; U.S. v. Community Services, 189 F.2d 421 (4th Cir. 1951); Bear Gulch Water Co. v. Commr., 116 F.2d 975 (9th Cir. 1941).

/32 There is much to be said for the rationalization of the Sagrada opinion made in Samuel Friedland Foundation v. U.S., 144 F.Supp. 74 (D.N.J. 1956). There the court said,

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"The likely explanation is that there were members of the Court who foresaw the economic effect of permitting to tax such organizations carte blanche into the competitive business area."

/33 H.Rep. 2319, 81st Cong., 2d Sess. (1950-51)
Cum.Bull. 409)

/34 Treas. Reg. 1.501(c)(3)-1(a)

/35 Empowering an organization "to engage in manufacturing business" may thwart exemption regardless of a broadly stated purpose to be charitable within the meaning of section 501(c)(3). Treas. Reg. Section 1.501(c)(3)-1(b)(i)(iii). Cf. Lewis v. U.S. (D.C. Wyo. 1961) 189 Fed. Supp. 950. See discussion in Greisman, "The Problem of the Unauthorized Transaction," 4th N.Y.U. Conf. on Charitable

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Foundations 253 (1959).

/36 Treas. Reg. Section 1.501(c)(3)-1(c)(1).
See Sensengood v. Commr., (6th Cir. 1955)
227 F.2d 907, 910; Francis Edward McCallister
Foundation v. Commr., (3rd Cir. 1960) 278 F.2d
643.

Other than in Sagrada, supra, the only other
time the Supreme Court gave meaning to the
word "exclusively", it was not in the income
producing sense. Better Business Bureau v.
United States, 326 U.S. 279 (1945). There
the Court said the presence of a single
non-exempt purpose, if substantial in
character, will destroy exemption regardless
of the number of truly exempt purposes. For
the converse rule, see Est. of Philip F.
Thayer, 24 T.C. 384 (1955). See also Paul,
Federal Estate and Gift Taxation, (1942),
Vol. I, section 12.19 where "exclusively"
was defined so as to allow for "a purpose

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incidental, contributory, subservient or mediate to one of the statutory purposes..." to exist and still not effect exempt status.

/37 See Committee Reports on Revenue Act of 1950, H.Rep. 2319, 81st Cong. 2d Sess. S.Rep. 2375, 81st Cong. 2d Sess. (1910-2 Cum. Bull. 380, 483).

/38 Treas. Reg. section 1.501(c)(3)-1(b)(i)(b).

/39 Treas. Reg. section 1.501(c)(3)-1(c).

/40 Treas. Reg. section 1.501(c)(3)-1(e).

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/41 See Lewis v. U.S., 189 F.Supp. 950 (D.Wyo. 1960) where the court disposed of the Service's argument that Treas. Reg. Section 1.301-1(c)-1(b)(1)(iii) was violated where the trust instrument provided the trustee with the power to engage in business. The court said the power was given not to engage in business as "purpose," but merely "to carry out the express purpose of the trust."

/42 See sections 62, 162, 163, 165, 166, 172, 513 or 1231.

/43 Beamsley v. Comm'r., (7th Cir. 1953) 205 F.2d 743, 748.

/44 Roche's Beach, Inc. v. Comm'r., supra. Loss of a feeder type case as this caused an initial liberalization of Service position,

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G.C.M. 15067, XIII-2 Cum. Bull. 103;
G.C.M. 20853, 1938-2 Cum. Bull. 106;
GCM 21610, 1939-2 Cum. Bull. 103; GCM
22116, 1940-2 Cum. Bull. 100, followed
by an expurging of the acquiescence in
Roche's Beach, See GCM 23063, 1940-
Cum. Bull. 103.

/45 Indiscriminate use of the colorful term,
"feeder" can be "an anodyne for the pain
of thought." E.g., Judge Wortendyke
questioned the value of the term in Friedland Foundation v. U.S., 144 F.Supp.
74 (D.N.J. 1956).

/46 See cases cited notes 30 and 31 for pre-1950
treatment.

/47 "In the area covered by (section 502) there has
been litigation as to the application of such
rule under existing law (cf. Roche's Beach, Inc.

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v. Commissioner (C.C.A. 2, 1938)
96 F.(2d) 776; Universal Oil Products Co.
v. Campbell (C.A. 7, 1950), 131 F.2d 131,
Wellington v. Home Oil Mill (C.A. 2, 1950)
181 F.(2d) 9; C.F. Mueller Co., 14 F.S.
No. 11 (May 25, 1950)). The amendment
[section 507] is intended to show that,
from its effective date, the rule is to
without disturbing the determination in
present litigation of the rule of existing
law." S.Rept. 2375, 81st Cong., 115 (1950)
The Fourth Circuit thought otherwise,
considering the provisions of section 501
as merely clarifying rather than changing
existing law, U.S. v. Community Services, Inc.
(4th Cir. 1951) 189 F.2d 421, cert. den.
342 U.S. 932 (1952).

/43 Treas. Regs. 1.502-1(a)(1958).

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/49 Comptre, Willingham v. Home Oil Mill
(5th Cir. 1950) 181 F.2d 9, cert. den.
340 U.S. 852 (1950), (Income from oil
business paid over to charity); G.P. MacDonell v.
Commr. (3rd Cir. 1951) 191 F.2d 120, (Income
from macaroni business paid over to
university) with Debs Memorial Radio Fund v.
Commr. (2d Cir. 1945) 148 F.2d 945,
(income from commercial radio station paid
by the organization for educational, cultural
and civic programs); Commr v. Oulton (6th Cir.
1949) 173 F.2d 483, (Income from mfg. of
standard pyrometric cones devoted by the
organization to study in field of ceramics).

/50 See SICO Foundation v. U.S., 295 F.2d
924 (Ct. Cls. 1961) for application of
section 502 and 102 F.Supp. 197 (Ct. Cls.
1952) for pre-1950 law decision on similar
facts.

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/51 Treas. Reg. section 1.501(c)(3)-1(c).

/52 The Service has long recognized that an organization organized to dispense its income (presumably passive in nature) to active charities is exempt under section 501(c)(3) and its predecessors. I.T. 1945, III-1 Cum. Bull. 273 (1926).

/53 Treas. Reg. section 1.501(c)(3)-1(a)(i).

/54 Int. Rev. Bull. 1964-24, 70.

/55 The extent to which such activity is subject to sections 511-514 is, of course, a separate matter. The threshold question is whether the organization is exempt in the first instance.

/56 St. Germaine Foundation, 26 T.C. 648 (1956).

/57 Forest Press, Inc. 22 T.C. 265 (1954)
(publication of the Dewey Decimal Classification System, which the court pointed out, had no commercial adaptation.)

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- /58 Science & Research Foundation v. U.S.
181 F.Supp. 526 (D.C. 1960) (publication
and distribution of scientific literature);
Forest Press, Inc., supra; and A. A. Allen
Revivals, Inc. 22 T.C.M. 435 (1963) (sale
of magazines, books, pamphlets, Bibles,
music records, tape recordings, and
pictures); American Institute for Economic
Research v. U.S. 302 F.2d 904 (Ct. Cls.
1962) (publication of investment periodicals.)
- /59 St. Germaine Foundation, supra, (sale of
religious publications to students and
members of the religious following and income
from fees in connection with annual convocations);
Squire v. Student Book Corp. 191 F.2d 111
(9 Cir. 1951) (income from operation of
student book store and restaurant.)
- /60 Scripture Press Foundation v. U.S. 265 F.2d
800 (Ct. Cls. 1961), cert. den. 368 U.S. 385
(1962).

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/61 Supra, footnote 11.

/62 Contrast the Court of Claims approach to the distinction Sen. Bacon made during debate on the 1909 Act where the activities of the Methodist Book Concern were discussed:

"I will say to the Senator from Maryland to the Senate * * * that the corporation had particularly in mind at the time I drew this amendment is the Methodist Book Concern * * * which is a very large publishing establishment, and in which there necessarily be profit made, and there is a profit made exclusively for religious, benevolent, charitable, and educational purposes, in which no man receives a scintilla of individual profit." 44 Cong. Rec. 4151 (1909)

See also, page 38 of plaintiff's brief, ^{in the Scriptura Press Co} where the publication activities of a dozen denominational publishing houses are discussed.

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/63 \$1.5 million in accumulations versus \$75,000
"educational" activity.

/64 22 T.C.M. 435 (1963).

It also includes the cost of providing health services to National Office employees, an item formerly budgeted by the Office of the Secretary.

The next increase, 496 man-years and \$2,997,000 is simply the incremental cost of putting on a full-year basis in 1966 certain employees authorized to be hired in the middle of fiscal year 1965 for Service Center operations.

We will also need \$324,000 to pay additional personnel compensation and benefits resulting from the conversion of certain long-term, ADP, temporary employees to "term" appointees, as required by the Civil Service Commission. The \$78,000 increase for the Employees Compensation Fund is based on actual billings and is obviously unavoidable, as is the \$280,000 for annualization of part-year 1965 space rental.

The reductions are primarily associated with non-recurring equipment purchases and the reduction of staff in the Alcohol and Tobacco Tax activity, as a result of improved manpower utilization.

That is a summary of the increases requested for 1966 which as noted on Chart 1, total \$54,620,000.

There is one other item in connection with the appropriation to which I would like to draw your attention. In the language for the Revenue Accounting and Processing appropriation we are asking for authority to provide pre-employment training for key punch operators. Qualified personnel are not available in the numbers required at our Service Centers and we have found that we can satisfy our requirements most cheaply by providing pre-employment training to inexperienced applicants, hiring only from among the successful trainees. The General Accounting Office believes this pre-employment training should be specifically authorized in the appropriation and therefore we have proposed the change as shown in the language of the Revenue Accounting and Processing appropriation. In the interests of economy, your approval is requested.

Finally, before concluding, I would like to report to you what we are doing about organizations that are exempted from taxation.

To enhance voluntary compliance as well as to cope with abuses and other violations of the tax laws, the Service in the past three years has found it necessary to devote increasing attention and resources to the exempt organizations area. The rapid growth in the number of exempt organizations since World War II, together with an expansion of their activities into numerous areas, both national and international in scope, that could not have been foreseen at the time the statutes were enacted, has brought about a proliferation of problems requiring more effective Service administration. The Service estimates there are presently several hundred thousand principal exempt organizations with a number of subsidiaries probably exceeding one-half million. These numbers are steadily increasing since the Service annually receives approximately 12,000 new applications for recognition of exempt status. While the magnitude of the area in itself presents difficulties, administration is further complicated by the heterogeneous nature of organizations which may qualify for exemption. These include civic and welfare organizations, labor unions, social and recreational clubs, fraternal orders, business leagues, cemetery corporations, and mutual organizations, and innumerable forms of charitable, educational, scientific, or religious organizations.

The Service has not been alone in recognizing the importance of this area and the impact of tax exemption on the taxpaying public and the national economy. There has been continuing Congressional interest. Most recently, the Select Committee on Small Business, under the chairmanship of Congressman Patman, has undertaken an extensive study

into the activities of private foundations. In highlighting the need for a continuing effective program in administering the laws relating to tax exemption, the Committee has pointed up the significant economic growth of foundations. In one report the Committee stated that the invested capital of 534 foundations is 26% greater than the capital of the Nation's 50 largest merchandising firms.

In an effort to improve its administrative effectiveness, the Service has greatly expanded its audit program, developed specialized training programs, and instituted studies into abuses and other areas needing legislative consideration. In addition, a master file of exempt organizations on electronic tape is presently being established. This tape will contain, on a more accessible and current basis, data showing the number and kinds of exempt organizations, the nature of their activities in furthering their exempt purposes, and their locations in terms of District Directors' areas of audit jurisdiction.

In fiscal year 1964 some 10,000 exempt organizations were audited. This examination rate should be continued. Likewise, in the coming years, the Service must continue to develop highly trained specialists in order to correctly interpret and deal with the complexities of the laws relating to tax exemption, to broaden its publication program to provide for uniformity of actions and to minimize situations from which litigation may arise. We must, also, bring the master file system to an effective operational reality. We will continue to assist the Treasury Department in developing legislative proposals needed to provide a more definitive basis for administrative determination of exempt organization status and to provide a clear legal foundation for curbing abuses in this area. The problem is large. But

we hope that the efforts we are making to resolve it meet with your satisfaction.

That, gentlemen, concludes my presentation. I have appreciated your interest and would be happy to answer any questions you may have.